

Comment 1
Proposed Rules
Chapter 815 (UI)
Marketplace

From: Ribnick, Keith - ETA [mailto:Ribnick.Keith@dol.gov]
Sent: Friday, December 21, 2018 10:20 AM
To: Ross, Chuck <chuck.ross@twc.state.tx.us>
Cc: Stalinsky, Jason A <jason.stalinsky@twc.state.tx.us>; Turney, Jaye <kimberly.turney@twc.state.tx.us>; Trobman, Les <les.trobman@twc.state.tx.us>; Patricio, Jewell A <jewell.patricio@twc.state.tx.us>; Parker, Diane <diane.parker@twc.state.tx.us>; Green, Nanette E - ETA <Green.Nanette.E@dol.gov>; Kenyon, Robert - ETA <Kenyon.Robert@dol.gov>; Burleson, Brie - ETA <burleson.brie@dol.gov>; Ribnick, Keith - ETA <Ribnick.Keith@dol.gov>

Subject: RE: UC Proposed Rules - USDOL Conformity Review and Comment

Good Friday morning, Chuck and TWC colleagues!

We have reviewed the proposed amendments to Texas Commission Workforce Rule 40/Texas Administrative Code 815.134 (attached) and have consulted with the Division of Legislation in the Office of Unemployment Insurance. We have identified no issues with the proposed amendments.

Keith Ribnick
Unemployment Insurance Program Specialist
U.S. Department of Labor
525 So. Griffin Street, Room 317
Dallas, TX 75165
Phone: 972-850-4628

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Comment 2
Proposed Rules
Chapter 815
Marketplace

From: Rene Lara <[REDACTED]>
Sent: Thursday, January 10, 2019 11:29 AM
To: TWCPolicyComments
Subject: Comments by the Texas AFL-CIO on the proposed amendments to 40 TAC §815.134 of Chapter 815 relating to Unemployment Insurance
Attachments: Final Gig Economy Comments to TWC9Jan19.docx

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Comments by the Texas AFL-CIO, representing Texas workers, on the proposed amendments to Subchapter C, Tax Provisions, 40 TAC §815.134 of Chapter 815, relating to Unemployment Insurance

The Texas Workforce Commission (TWC), gave preliminary approval to rules that could disrupt the existing system for determining the employment status of many working Texans, triggering a 30-day comment period in the Texas Register that ends Jan. 21, 2019. The state agency proposes to allow certain companies to designate workers as “marketplace contractors,” rather than “employees,” if the employer uses “digital networks” to conduct its business. In other words, businesses that manage their workforce similar to how Uber and Lyft manage their drivers can declare employees independent “marketplace contractors.”

While the proposal purports to affect only Unemployment Insurance, the rule could serve as a license for companies to convert their business model to digital platforms (i.e., website or online phone apps) to classify workers as independent contractors for ALL purposes. In the normal course of business, a worker is not likely to challenge that designation. Workers risk the loss of mandatory benefits that include a half-portion of Social Security and Medicare taxes, overtime pay, Unemployment Insurance, retirement and health insurance benefits, and Workers’ Compensation. In addition, once workers are determined to qualify as “marketplace contractors,” they may well lose employment benefits that businesses elect to offer to compete for workers.

The proposed rules represent bureaucratic overreach into activity that rightfully belongs to the Texas Legislature or the federal government.

Neither the Texas Workforce Commission, which voted for this proposal on a 2-to-1 vote, nor any other state agency possesses the authority to change the definition of “employee” in Texas. A policy change of this magnitude should be deliberated upon by elected officials. The TWC hangs its hat on its self-declared “broad authority” to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.” Establishing a new employment status for Texas workers, in addition to “employee” and “independent contractor,” in our view, exceeds this rule-making authority.

A recent example of the Texas Legislature's exercise of its jurisdictional power over worker status in the gig economy is House Bill 100 from the 85th Legislature's regular session. The bill addressed transportation network companies, particularly Uber and Lyft. After much deliberation, the Legislature required the following of digital network companies employing independent contractors:

- obtaining and maintaining a permit;
- payment of fees;
- digital identification of the contractor;
- electronic receipts;
- confirmation that the contractor is at least 18 years of age;
- criminal background checks of contractors; and
- protection of consumer information.

The TWC would require none of these items of proof in the proposed rule.

In addition, the Texas AFL-CIO believes the rule would further victimize undocumented workers in an unregulated, underground economy. In our view, immigrant workers should have the full panoply of workplace rights. By not requiring web-based businesses to maintain proof of legal citizenship, permanent residency, or valid employment authorization for "marketplace contractors," the rule will create an incentive to hire undocumented workers while shedding all liability for issues related to their immigration status, along with the cost of benefits.

Bills enacting the Texas Workforce Commission's proposed rules have passed in several states (Arizona, Florida, Indiana, Iowa, Kentucky, Tennessee, and Utah), and failed in others (Alabama, California, Colorado, North Carolina and Georgia). But in all of these cases, the appropriate government body—the state legislature--deliberated over the issue – something that has not taken place in Texas.

The commission wrongly concludes that small businesses will not see an adverse impact from the rule. By creating an unjust path to rock-bottom employment costs, the rules would put traditional businesses at a serious competitive disadvantage.

Finally, Chapter 821.5 of the TWC's Payday Rules codifies the common law test for determining employment status. The rule already in place – one that does not conflict with current law – is adequate to determine the employment status of workers in the gig economy.

For all of these reasons, the Texas Workforce Commission should drop completely its proposed changes to Chapter 815 relating to Unemployment Insurance of the Texas Administrative Code.

Opeiu298/afl-cio

Comment 3
Proposed Rules
Chapter 815
Marketplace

From: Gary Warren [REDACTED]
Sent: Thursday, January 10, 2019 3:41 PM
To: TWCPolicyComments
Subject: Comment on Proposed Rules Chapter 815 Unemployment Insurance
Attachments: Opposition to Rule[3].docx

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Attached is a letter of opposition for the public comment period to the proposed rules amendment of Chapter 815 of Unemployment Insurance regarding workers who use a marketplace platform, submitted by the Central South Carpenters Regional Council. Below is the text version of the attached document that excludes references and footnotes.

The Central South Carpenters Regional Council hereby submit these comments in opposition to the proposed marketplace platform rule §815.134.

The proposed rule carves out an exception to employment under Texas Unemployment Compensation Act for marketplace platforms. If ever there was a rule designed to increase taxes, shift the burdens of work related injuries and unemployment to hard-working Texans and their families, this is it. That is especially true in the construction industry where unlawful business practices harm workers and law-abiding employers.

Moreover, the growth and prominence of the “gig economy” have been vastly overstated, making any radical changes in employment policy unnecessary.[1]

Illegal Employment Conditions in the Texas Construction Industry Harm Employers and Employees

Regrettably, the construction industry in Texas is well known for its violation of labor and employment tax laws and for wage theft.[2] Our representatives regularly visit construction sites throughout the state. It is routine for construction companies to hire crooked subcontractors or labor brokers that pay workers off the books. As a result, unemployment contributions, federal employment taxes, wages and overtime are not paid and, if there is a workers’ compensation policy, full premiums are not paid.[3] The proposed rule will exacerbate an already difficult business climate where workers are exploited and honest construction business face the double indignity of losing work to shirkers while seeing their unemployment contribution costs rise.[4]

The growing trend in the construction industry in Texas and other states is the use of subcontract labor brokers. It is a useful device to lower labor costs by up to 50 percent,[5] because labor brokers typically do not report their workers’ earnings to state or federal authorities or to workers’ compensation insurers, nor do they carry other employment benefits like health care. Those practices effectively shift the employment tax burden to workers and their families, because they end up paying the employment taxes that their employers should

pay. Meanwhile, the illegal savings in labor costs gives contractors a competitive edge, thus allowing them to steal work away from law-abiding employers and their employees.[6]

Texas Taxpayers and the Texas Workforce Commission Pay a Severe Cost for Construction

Industry Tax Fraud

So what do illegal employment practices cost Texas taxpayers? Forty-one percent, or over 300,000, construction workers in Texas are either misclassified as independent contractors or are paid off the books.[7] The Texas Workforce Commission (TWC) is losing \$54.5 million a year in unemployment insurance contributions.[8] The federal income tax loss is a staggering \$1.06 billion.[9] None of these figures, though, take into account the lost work opportunities and income for honest construction employers and their employees.

The Proposed Marketplace Platform Rule Will Make Matters Worse and Raise Taxes

The labor brokers scheme helps shield contractors from liability. Labor brokers are not companies like Manpower. They are individuals who operate as d/b/a's or they may be incorporated or operate through shell companies. They use their cell phones to take orders for workers from contractors and to call and dispatch workers to contractors. Contractors pay the labor brokers weekly and the brokers pay the workers with no tax withholdings. When and if law enforcement does arrive, they focus on the labor brokers, because they are the low hanging fruit. Even though contractors provide building material equipment, training, discipline and daily supervision of the workers, the contractors use the subcontract relationship to confound law enforcement and to escape liability. Thus, while the labor brokers face accountability, the contractors do not and simply find other labor brokers to fill in any gaps created by law enforcement.

The rule gives the labor brokers a safe harbor. They can simply have their workers sign adhesion contracts[10] mirroring the terms of the rule and then take orders from contractors through an app and dispatch workers to contractors through an app. With that, no one will face any meaningful threat from law enforcement without an exhaustive investigation. With that, construction employers who do pay unemployment contributions to the TWC will be further disadvantaged. With that, workers will have to pay additional federal employment taxes that their employers should pay. With that, wave goodbye to law-abiding contractors and the taxes they pay.

The Gig Economy is Not a Viable Future if We Want a Strong Middle Class

The proposed rule is similar to others that the online application Handy and its allies have been proposing in numerous legislatures.[11] The argument has been that gig work is the economy of the future, and our laws need to adapt. But gig work is not a future that will support and grow the middle class, because gig work pay is low and dropping.[12] Most Uber, Lyft, delivery drivers and home repair gig workers work three months or less a year. Most only do it for supplemental income. More than half of gig workers tire of the low pay and lack of benefits and leave it. For instance, Uber and Lyft drivers have seen their wages drop by over fifty percent. Additional statistics bear this out. A US Department of Labor study found that as of March, 2018 only 1.6 percent of families participated in gig work. That is an increase of only 0.1 percent from the previous year.[13] Indeed, the Wall Street Journal recently disclosed that the authors of a previous study touting the growth and prominence of the “gig economy” admit that their conclusions were wrong, because they were based on incomplete and flawed data.[14]

The facts beg the question of why policy makers should upturn employment and tax laws to support low paying jobs with no benefits that place additional burdens on hard working Texas families. It clearly is not to grow and support the state's middle class.[15] Indeed, gig employment sounds more like a return to the eighteenth century than it does any future we should want.

The Proposed Rule Should be Rejected

There is serious doubt that the TWC has the authority to overturn state law by re-defining employment by regulation. Even if it does, there are sound policy reasons for why the rule should be rejected.

The rule creates a road map for contractors and their crooked subcontractors and labor brokers seeking to evade their legal responsibilities. Construction is a fiercely competitive industry that excels in creating schemes that violate state employment and tax laws. The rule will further pressure contractors to join in those schemes and shed employees in order to stay in business. The TWC will see its revenue drop. Moreover, hard-working Texan construction workers will see their net income decrease through an increase in employment tax obligations as more contractors get their labor from brokers that pay low wages and operate through marketplace platforms. That is not a future that will grow and support a middle class in Texas.

For the reasons stated above, we respectfully request the TWC to reject the proposed rule. Instead, the TWC should be exploring improving enforcement of existing law.

Gary H. Warren
Political Director
Central South Carpenters Regional Council
1825 S IH-35 Austin, TX 78741

www.centralsouthcarpenters.org

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[1] It is also questionable whether the Texas Workforce Commission has the legal authority to amend statutory law by regulation. We will leave it to comments by others opposed to this rule to address that argument.

[2] Build a Better Texas: Construction Working Conditions in the Lone Star State, Workers Defense Project and Community Engagement at University of Texas at Austin, 46 (2013), available at StopTaxFraud.net [hereinafter Build a Better Texas]; Bob Price, Employee

Misclassification Raises its Ugly Head Again-Costing TWC millions in Lost Taxes, Texas GOP Vote, July 14, 2011; and Company Ordered to Pay \$300,000 Restitution for Premium Fraud, WorkCompCentral, August 26, 2011.

[3] Id.

[4] Wade Goodwyn, Texas Contractors Say Playing by the Rules Doesn't Pay, NPR, April 11, 2013.

[5] Build a Better Texas at 34 (“[Up to] 50% of the costs to do the project is in labor...With the cost of the payroll, taxes, insurance, and fringe benefits, it generally adds another 50% on top of the cost of labor.”-Graham Moore, Houston President for TD Industries.’).

[6] David Schecter, Contractors Slash Bids by Avoiding Taxes, State Lacks Enforcement, WFAA TV, July 12, 2011.

[7] Build a Better Texas at ii and 13.

[8] Id at iii, 40, 45, 46 and 56.

[9] Id at 46.

[10] Many construction workers in Texas are immigrants and some of them are not authorized to work in the United States, so they do not have much if any bargaining power.

[11] Lydia DePillis, For Gig Economy Workers in These States, Rights are at Risk, CNN Money, March 14, 2018, available at, <https://money.cnn.com/2018/03/14/news/economy/handy-gig-economy-workers/index.html> (accessed January 4, 2019).

[12] Christopher Rugaber, Why the ‘Gig’ Economy May Not be the Workforce of the Future, AP News, September 24, 2018, available at, <https://apnews.com/dee67b607a034699abf4ec14bab5cb1c> (accessed January 4, 2019).

[13] Id.

[14] Josh Zumbrum, How Estimates of the Gig Economy Went Wrong, Wall Street Journal, January 7, 2019.

[15] Another often-heard misconception about market place platforms is that they are more like the Yellow Pages than employers. Consumers in need of a service fill it by connecting through an app with a service provider. It is a simple analogy that ignores the fact that the Yellow Pages do not pay the service providers. Marketplace platforms do.

Comment 4
Proposed Rules
Chapter 815
Marketplace

From: Alejandro Sills [REDACTED]
Sent: Friday, January 11, 2019 8:00 PM
To: TWCPolicyComments
Subject: "Marketplace contractor" issue

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

To whom it may concern:

I am highly opposed to the proposed rule that would allow employers who use digital platforms to treat workers as "marketplace contractors." This would strip them of numerous benefits that the American worker has historically enjoyed as basic provisions of employment, such as employers paying partially into Social Security, Medicare, health benefits, and overtime pay.

This shameful practice would scorn the idea of the American worker as a worthy investment in societal well-being. It invites a race to the bottom with other countries in terms of employee treatment. It has no place in a country that purports to look for the general welfare.

Reject this rule and side with the American people.

Alejandro Sills

Comment 5
Proposed Rules
Chapter 815
Marketplace

From: Ben Brenneman [REDACTED]
Sent: Monday, January 14, 2019 10:34 AM
To: TWCPolicyComments
Cc: Registrar; President
Subject: Proposed amendments to Subchapter C, Tax Provisions, 40 TAC §815.134 of Chapter 815, relating to Unemployment Insurance

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Dear Board Members,

The International Brotherhood of Electrical Workers Local 520 opposes the proposed change in Unemployment Compensation Rules.

Already, there are thousands of construction workers inappropriately classified as independent contractors or are paid under the table. They are risking their lives every day in the most deadly state in the nation for construction workers without the protection of worker's compensation insurance, and at the end of the year they are slammed with an enormous tax bill. This is unfair to the workers, and puts the safety reputation of the general contractor at risk.

This rule has implications beyond Uber and Instacart. It has the potential to normalize a dangerous working environment for construction workers just because they are dispatched through an app or website. I urge the Board to reconsider this course of action.

Sincerely,

Ben Brenneman
Business Manager
IBEW Local 520
Office: 512-326-9596
Cell: 512-517-1226

**Comment 6
Proposed Rules
Chapter 815
Marketplace**

From: Christian Brooks [REDACTED]
Sent: Monday, January 14, 2019 7:29 PM
To: TWCPolicyComments
Subject: Rule 815.134
Attachments: TWC ltr.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Greetings:

Please find a letter regarding Rule 815.134, attached.

Christian Brooks I General Counsel
FieldFocus
1601 W. 38th Street
Suite 208
Austin, TX 78731
512-419-9052 ext 0456 (o)
512-217-7627 (m)
[REDACTED]
www.fieldfocus.com

January 9, 2019

Texas Workforce Commissioners,

Safety on Demand, LLC, d/b/a FieldFocus would like to provide affirmative support and commentary on the amendment of Commission Rule 815.134. This amendment would provide crucial specification and clarity for on-demand platforms' businesses, such as ours, and how unemployment insurance would apply to them.

FieldFocus is a mobile device application and web-based administration portal that allows its customers to create digital "paperwork" (for example, safety forms, checklists, timesheets or virtually any paper-driven information-gathering process) and place it on field employees or contractors devices. These persons then have access to and can complete and submit their required paperwork for critical data gathering and management in real time.

As our company and other kinds of on-demand platforms (also commonly referred to as the "gig economy") become increasingly prevalent in the Texas economy, it is important that there is security in our growth through clarifications like this amendment. We are pleased to support this effort not only for our company's expansion, but also for the Texans who will find employment through it.

Thank you for your time and consideration on this matter, as well as the effort you have already put toward making Texas an even better place to do business.

Sincerely,



Christian Brooks | General Counsel
FieldFocus
1601 W. 38th Street
Suite 208
Austin, TX 78731
512-419-9052 ext 0456 (o)
512-217-7627 (m)


www.fieldfocus.com

Comment 7
Proposed Rules
Chapter 815
Marketplace

From: Al Hergenroeder [REDACTED]
Sent: Wednesday, January 16, 2019 6:42 AM
To: TWCPolicyComments
Subject: Vote on workers hires from website as independent contractors

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This is a bad deal for workers in the new economy.
Working families need benefits.
Stick up for the average working person not helping already wealthy companies and individuals get richer at the expense of the middle class.

Al Hergenroeder
Sent from my iPhone

Comment 8
Proposed Rules
Chapter 815
Marketplace

From: Virginia Clark [REDACTED]
Sent: Wednesday, January 16, 2019 7:14 AM
To: TWCPolicyComments
Subject: protect the workers

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I read an article in the Houston Chronicle this morning about a proposed rule saying that anyone hired off of a website should be considered a contractor. That is way too broad and is going to leave a lot of workers out in the cold. It seems to be that some big companies like UBER are trying to pull a fast one. I'm against that rule.

Virginia Clark
1828 Dunstan Rd
Houston, TX 77005

Sent from my iPad

Comment 9
Proposed Rules
Chapter 815
Marketplace

From: Greg Devenish [REDACTED]
Sent: Wednesday, January 16, 2019 7:35 AM
To: TWCPolicyComments
Subject: TWC Policy Comments, Workforce 38 Program Policy

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Attn: Workforce Editing

The proposed rule of the Texas Workforce commission regarding gig economy workers as independent contractors is an egregious handout to corporations and a violation of workers rights. By creating a new classification for gig workers who rely on websites, the commissioners help companies avoid fundamental labor laws.

The new rule allows companies to escape any responsibility to workers.

The degree of control and direction of the workers by the corporate entity is complete and comprehensive. Any worker in this situation is at the mercy of the corporation and thereby should be eligible to receive the full suite of benefits due to any standard employee.

Political appointees shouldn't get to declare the gig economy a separate world in which workers take on all the risk, and a business's obligations to workers vanish. When it comes to the needs of working families, it does not matter whether customers enter via the front door, the mailbox or a computer.

Sincerely
Greg Devenish
1811 Candlelight Place Dr
Houston Tx 77018

Comment 10
Proposed Rules
Chapter 815
Marketplace

From: Anne Pearson [REDACTED]
Sent: Wednesday, January 16, 2019 8:38 AM
To: TWCPolicyComments
Subject: Public Comment on proposed rule regarding definition of a contractor --
OPPOSE

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I read in today's San Antonio Express News that the commission has approved a rule that would widen the definition of workers who are considered "contractors" and therefore not entitled to normal protections and benefits provided under federal labor regulations for "employees."

I strongly OPPOSE this proposal, as it is abusive and harmful to workers trying to support themselves and their families.

Further, I tried to locate and read the proposal on your website under "Pending Proposed Rules, Rule Reviews & State Plans" and it is sadly missing. If the deadline for public comment is January 21, that proposal should be on your website.

Please reply and let me know where I can find it on your website.

Regards,

Anne Pearson
16934 Hidden Oak Woods
San Antonio, TX 78248
210-748-1740
[REDACTED]

Comment 11
Proposed Rules
Chapter 815
Marketplace

From: marc laroe [REDACTED]
Sent: Wednesday, January 16, 2019 9:03 AM
To: TWCPolicyComments
Subject: TWC Policy Comments on Independent Contractors

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To whom it may concern;

I believe that any ruling on the categorization of workers as independent contractors or not should be made in haste. I believe this is an item best left to our state legislators, and that people working in the gig economy should not be penalized at the benefit of large unicorn corporations.

Given the murkiness of the situation I don't think it is reasonable to assume that 3 people sitting around a table should be able to make a decision that so drastically affects peoples lives.

I think you should ditch your plan to label people finding work on websites as independent contractors.

Regards,

Marc LaRoe

Comment 12
Proposed Rules
Chapter 815
Marketplace

From: Dennis Keel [REDACTED]
Sent: Wednesday, January 16, 2019 9:25 AM
To: TWCPolicyComments
Subject: Proposal on what constitutes a contract worker

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I totally disagree with your proposed ruling on what constitutes a contract worker. It will likely reinforce the trend to make all of us contract workers with no protections against greedy and unscrupulous employers. I urge you to reconsider.

Dennis Keel

Comment 13
Proposed Rules
Chapter 815
Marketplace

From: R K Entrekin [REDACTED]
Sent: Wednesday, January 16, 2019 7:10 AM
To: TWCPolicyComments
Subject: Commissioners stack deck against gig workers

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This decision just plain wrong - who exactly is paying you guys off? - these people work for a living like most all of us in America and deserve the same benefits so get it together and change your ruling to reflect reality. Ashamed of y'all!

R.K. Entrekin

11739 Wickhollow Ln

Houston, TX 77043-4533

281-870-0689

--

R.K. Entrekin

Comment 14
Proposed Rules
Chapter 815
Marketplace

From: Laura Stokes [REDACTED]
Sent: Wednesday, January 16, 2019 10:03 AM
To: TWCPolicyComments
Subject: Rule change regarding employee classification

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Dear Sirs and Madams,

Please do not change the rule regarding employee classification. This is a matter that should be decided by the legislature. We currently have a problem with underemployment in Texas, and I believe that is in part because of employers unwillingness to commit to workers. They want all the benefits of loyal employees while being unwilling to pay adequate compensation or benefits. You may think that this is not a problem now, but if you consider the long view, Texas will one day have a population of destitute elderly people. In the short term, young people looking for good stable jobs with health insurance and 401 K plans are having a difficult time finding these jobs, and this rule change will make it more difficult. Financially insecure people do not buy houses or cars, and cut back on purchases of consumer goods. Please don't compromise my children's future with this rule change.

Thank you for your consideration,

Laura Stokes

Comment 15
Proposed Rules
Chapter 815
Marketplace

From: Erika Mozes [REDACTED]
Sent: Wednesday, January 16, 2019 10:17 AM
To: TWCPolicyComments
Subject: Amendment to 40 TAC § 815.134
Attachments: Hyr - Letter in support of Texas Proposed Rule.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Please find attached a letter from our CEO, Joshua Karam, in support for the proposed amendment to 40 TAC § 815.134.

We are happy to discuss further, if necessary.

Best,
Erika

--

Erika Mozes
Co-Founder & COO

T. 646-627-8842
M. 647-244-6505
[REDACTED]

This app is the Airbnb for hourly paid work | Hyr was named 1 of 5 startups to watch in NYC

January 11, 2019

Via e-mail to TWCPolicyComments@twc.state.tx.us

TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing
101 East 15th Street, Room 459T
Austin, TX 78778

Re: Amendment to 40 TAC § 815.134

I am the CEO of Hyr, a growing gig economy platform that connects businesses with hourly-paid workers when they need it most. I write to voice Hyr's support for the proposed amendment to 40 TAC § 815.134 currently being considered by the Texas Workforce Commission and respectfully urge the Commission to adopt the rule in its current form.

Hyr works by connecting businesses, many of which are currently in the hospitality industry, with workers looking to pick up shifts that fit their schedules and lifestyles. This arrangement allows restaurants to staff extra help when a big conference is in town, a bar to have extra help during a big football weekend, or a catering company to provide more bartenders when their regular employees are unavailable. This arrangement benefits businesses that can choose accountable, reliable workers to fill shifts, sometimes on short notice, and benefits a new generation of workers that value time over money and the flexibility, control, and independence that offering services on their terms allows.

At Hyr, we understand the changing dynamic between workers and businesses that operate outside of the 9 to 5 continuum and that is why maintaining and supporting the contractor status of Hyr Pros is so important. Workers in the gig economy value the choice and power in the labor market that being an independent contractor provides them. The TWC's proposed rulemaking recognizes these new working relationships and provides clear guidance that workers and gig economy platforms can rely upon to continue to grow this innovative aspect of the new labor economy. Hyr thanks the TWC for its work on this topic and respectfully urges the Commission to adopt the proposed rule.

Sincerely,



Joshua Karam
CEO
Hyr Inc.

Comment 16
Proposed Rules
Chapter 815
Marketplace

From: Steven Kimbrell [REDACTED]
Sent: Wednesday, January 16, 2019 10:23 AM
To: TWCPolicyComments
Subject: Independent Contractors

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

The recent vote by TWC regarding the definition of an “independent contractor” not only doesn’t pass the ‘billboard test’ for appropriateness, it downright stinks of lobbyists and politicians and under-the-table agreements. Two appointed commissioners do not get to make law - that job belongs exclusively to the Legislature.

Steve Kimbrell
281.253.0761

Sent from my iPad

Comment 17
Proposed Rules
Chapter 815
Marketplace

From: Kenneth Hummel [REDACTED]
Sent: Wednesday, January 16, 2019 10:25 AM
To: TWCPolicyComments
Subject: Uber drivers are not contract laborers

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

The proposed policy change should be scrapped. It allows companies to prosper at the expense of its work force.

Judy Hummel
13318 Kiltey St.
San Antonio, TX 78248
[REDACTED]
210 492 6884

Comment 18
Proposed Rules
Chapter 815
Marketplace

From: Richard Elliott [REDACTED]
Sent: Wednesday, January 16, 2019 10:36 AM
To: TWCPolicyComments
Subject: Workforce 38 Program Policy Proposed Rule

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I understand that the Commission has approved a rule that would classify most persons hired from a website marketplace contractor as “independent contractors.” It appears that the Commission is bowing to pressure from lobbyists from companies like Uber.

I have a definite interest in the results of the proposed rule from two directions: First because members of my family have worked for riding sharing companies like and including Uber. Second because as a senior citizen I likely will become dependent (not just a causal user) on the services of ride sharing companies when I can no longer drive. Consequently, the welfare of the persons working for companies such as Uber is a matter of my personal concern, not to mention a matter of my personal safety.

The proposed rule would classify an Uber driver, for example, as an independent contractor, but is he/she really an independent contractor? While the driver may have considerable control over when to work, Uber certainly tells the driver how to work, such as how quickly to respond to a request and how to provide service to customers. The driver’s tools – the car – must meet requirements of the company; that is, the driver is not free to use whatever tool – car – that will get the job done. The car must meet minimum standards and be kept in a clean and safe condition. Should customers complain to the company about the condition of the car, the driver is probably going to be terminated (fired) if the problem is not resolved to the company’s satisfaction – note, not the performance of the task, but the tool used must satisfy the company.

A usual determinate of an Independent contractor is that the independent contractor uses his/her own tools to perform the required task and the contracting company neither provides the tools nor exercises control over the appearance or use of the tool beyond safety to others issues. Thus it seems companies such as Uber are exercising direct supervisory control over their drivers beyond the level expected of an independent contractor.

In addition, the website marketplace contractors in question directly control how much their workers get paid. Uber specifically determines prices and how much the driver takes home through their digital applications. When I worked as an independent contracting consultant, I could set my own prices, determine how I would do the job using my own tools and thus had control over how much I made.

When an Uber driver gets a job request to pick up a passenger for a trip, the driver has no control over the charge to the customer and must do the job for what the company says otherwise the driver will be terminated.

My understanding of IRS regulations is that if a worker performs services that can be controlled by the employer, that worker is not an independent contractor.

Finally, as in other states that have addressed this issue, the Commission should not be attempting to use the rule making process to bypass the legislative process. This issues should be decided in the state legislature not by political appointees bowing to the pressure of highly paid industry lobbyists. I respectfully request the Commission to withdraw this proposed rule and refer the issue to the legislature.

Thank you for considering these comments,

Richard Elliott
San Antonio, TX



Comment 19
Proposed Rules
Chapter 815
Marketplace

From: Glenna Dawson [REDACTED]
Sent: Wednesday, January 16, 2019 10:39 AM
To: TWCPolicyComments
Subject: New Rule to classify more workers as an independent contractor

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

To whom it may concern,

All workers should be covered by the same regulations and receive the same protections and benefits.

Sincerely,

Glenna Dawson
Houston, TX

Comment 20
Proposed Rules
Chapter 815
Marketplace

From: Edward Castor [REDACTED]
Sent: Wednesday, January 16, 2019 10:39 AM
To: TWCPolicyComments
Subject: Gig workers ruling

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

This regulatory rule is bypassing my state elected officials, whom have the say in this matter. Not in Favor of this proposed rule. These companies need to provide reasonable pay/benefits to workers; not consider them as independent contractor's then compensate at minimum living wages.

Once again, against this worker rule. I will contact my State elected officials; SD 26 and SH 125.

Ed Castor
San Antonio Texas

Comment 21
Proposed Rules
Chapter 815
Marketplace

From: Murry Cohen [REDACTED]
Sent: Wednesday, January 16, 2019 10:54 AM
To: TWCPolicyComments
Subject: Workforce 38 Program Policy/Classifying persons hired from a website as independent contractors

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Dear Commissioners:

I write to oppose the proposal before you to classify most persons hired from a website as independent contractors, based solely on the website as the source of hire.

As a longtime Texas lawyer and former appellate judge, I have seen for years the law expand too far in favor of employers seeking to classify workers as independent contractors instead of employees, in order to enable employers to deny workers rights they would have if classified as employees. The proposal before you is one more attempt to move this trend further in the wrong direction.

Please defeat this proposal, and do what you can in the future to preserve basic protections for workers by classifying them as employees except in cases where that is clearly not the case.

Sincerely,

--

Murry B. Cohen
Arbitrator and Appellate Advocate
Justice, First Court of Appeals (Ret.)
[REDACTED]

Comment 22
Proposed Rules
Chapter 815
Marketplace

From: Patrick T. Fogarty [REDACTED]
Sent: Wednesday, January 16, 2019 11:05 AM
To: TWCPolicyComments
Subject: Gig workers

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Your proposed new rule designating workers, such as those who drive for Uber and Lyft and others hired by websites, to be independent contractors is not right. They should be considered employees entitled to all the rights and protections thereof.

Comment 23
Proposed Rules
Chapter 815
Marketplace

From: Joe & Cynthia B [REDACTED]
Sent: Wednesday, January 16, 2019 11:42 AM
To: TWCPolicyComments
Subject: Independent Contractor or Employee

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

All,

This is written to say that the ruling that classifies almost anyone hired from a website as an independent contractor just makes it easier to deny workers their legal rights.

Joe B.
Houston

Comment 24
Proposed Rules
Chapter 815
Marketplace

From: Bryan Domning [REDACTED]
Sent: Wednesday, January 16, 2019 12:28 PM
To: TWCPolicyComments
Subject: AGAINST Website workers classification as independent contractors

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

TWC - I am OPPOSED to the classification of workers as independent contractors on the basis of their having been selected through, and dependent on, the use of websites. The extent to which their actions are controlled by others should deem them to be employees as they are in other states. Texas workers entirely dependent upon the companies that send them business, such as Lyft and Uber, for instance, should be entitled to all of the protections afforded to Texas employees. To do otherwise would be to impose a hardship on the workers and would ignore the reality of their work situation.

Texas law is clear on the issue of whether or not workers should be deemed independent contractors or employees. This decision with respect to how to classify web-based service providers should be left up to the Texas legislature, NOT the TWC.

Thank you.

Sincerely,

Bryan Domning

Comment 25
Proposed Rules
Chapter 815
Marketplace

From: William Cochran [REDACTED]
Sent: Wednesday, January 16, 2019 12:57 PM
To: TWCPolicyComments
Subject: gig workers

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Any rule enacted which allows a company to misclassify a worker as an "independent contractor" particularly those workers hired from a website (e.g.. Uber) is patently wrong and an injustice to the worker; such a rule would be successfully challenged in court, I would think. If such a rule currently exists, it should be immediately rescinded.

--William B. Cochran

Comment 26
Proposed Rules
Chapter 815
Marketplace

From: Rick Morneau [REDACTED]
Sent: Wednesday, January 16, 2019 1:45 PM
To: TWCPolicyComments
Subject: Workforce 38 Program Policy, Attn: Workforce Editing

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I write to express my opinion that the Texas Workforce Commission is not the place for the Workforce 38 Program Policy to be decided, but rather it is the Texas Legislature.

However, if the Texas Workforce Commission decides that they are going to rule on this policy, then it is my opinion that internet employers such as Uber and Lyft are indeed employers of those providing the ride service because they dictate and control all aspects of those providing the ride service via their web application.

Regards,

Rick Morneau

Farming looks mighty easy when your plow is a pencil,
and you're a thousand miles from the corn field.
Dwight D. Eisenhower, September 11, 1956

Comment 27
Proposed Rules
Chapter 815
Marketplace

From: James Franklin [REDACTED]
Sent: Wednesday, January 16, 2019 2:24 PM
To: TWCPolicyComments
Subject: Workforce 38 Program Policy

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I disagree with the commission's vote to characterize almost anyone hired from a website as an independent contractor. The control exerted by the companies that provide workers and the companies utilizing the workers efforts, that originate or is derived from a website/internet source, clearly does not meet the IRS definition of independent contract with respect to what and how work will be done.

This policy will simply trigger legal action such as class action lawsuits that will ultimately cost taxpayers and businesses in Texas. It is simply the cost of doing business (compliance with labor laws) if a business exerts controls over workers beyond the results of their labor.

This email is based on my reading of the San Antonio Express-News article by Chris Tomlinson on January 16, 2019 entitled "Workforce regulation stacks deck against gig workers".

Sincerely,
James Franklin
8608 Clipper Harbor
San Antonio TX 78253-6753

Comment 28
Proposed Rules
Chapter 815
Marketplace

From: Mark Turpin [REDACTED]
Sent: Wednesday, January 16, 2019 2:24 PM
To: TWCPolicyComments
Subject: Support for GIG worker rules

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

We support the rules, as proposed.
Sincerely,

Mark Turpin
CEO

The HT Group
7718 Wood Hollow Dr., Ste 100
Austin, TX 78731
o: 512-533-9700
c: 512-698-7188
Award-Winning Staffing & Recruiting

Comment 29
Proposed Rules
Chapter 815
Marketplace

From: [REDACTED]
Sent: Wednesday, January 16, 2019 2:59 PM
To: TWCPolicyComments
Subject: Hired through a website/Workforce 38 Program Policy/Attn Workforce Editing

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I read in the Hou Chron today, 01/16/2019, Chris Tomlinson's column entitled "Workforce Commissioners stack deck against gig workers." I am very concerned that you need updated information on how people are hired today. Job postings for most positions, interviews and offers are all communicated through a companies' website. A great percentage of people in the state of TX are hired 'through a website.'

This is a way of sneaking a MARKET PLACE CONTRACTOR BILL through TWC instead of going to the TX legislation.

Please review and do not enact the rule classifying almost everyone hired through a website as an independent contractor. This rule is in violation of the TWC mission statement.

Thank you
Aintre Antonoff

Comment 30
Proposed Rules
Chapter 815
Marketplace

From: [REDACTED]
Sent: Wednesday, January 16, 2019 4:22 PM
To: TWCPolicyComments
Subject: Workforce commissioners stack the deck against workers -
HoustonChronicle.com

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Dear TWC:

I believe the superb attached article by Houston Chronicle Business Writer, Chris Tomlinson, should be a must-read by everyone at the TWC.

The italicized comment by Rick Levy, President Texas AFL-CIO, is quite poignant, and sad.

When I worked as a full-time temp for a major Executive Search firm they dictated my hours and my workload. They directed me and controlled me, but still considered me a temp without benefits.

I am certain that the vote of two of your Commissioners will only aggravate that lousy and unfair situation today.

I strongly suggest that TWC refer the issue to the State Legislature. That decision would at least provide for a more fair and somewhat democratic decision. I think and hope.

My wife worked as an Interviewer for TEC (Houston, Texas City, Pasadena) back in the day; and we still hold a very good opinion of the good, and usually thankless, work that you do.

My Very Best Regards,

Roy A. Bobo II
Retired
League City

<https://www.houstonchronicle.com/business/columnists/tomlinson/article/Texas-Workforce-Commission-hobbles-gig-workers-to-13536377.php>

Sent from my iPhone

Comment 31
Proposed Rules
Chapter 815
Marketplace

From: Garry Hammit [REDACTED]
Sent: Wednesday, January 16, 2019 5:30 PM
To: TWCPolicyComments
Subject: Changes to regulation regarding employee vs Contractor determination

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Please allow our elected representatives to determine if regulations should be changed. By differentiating classification based whether a worker was hired via an online platform or through an in person interview, it becomes a slippery slope to classifying all employees hired through job sites, like Monster, Indeed, Glassdoor etc, as independent contractors. It is certainly not the time to be shifting more risk to the worker. We have grown strong because of our worker protections not in spite of them.

I would hope that in times like these when many companies want to do business in Texas, that we should be improving our worker protections, not relaxing them.

Thank you for your consideration.

Garry Hammit MBA
281-413-0097



Turning Mountains of Data into Pearls of Information

Comment 32
Proposed Rules
Chapter 815
Marketplace

From: tony galaviz [REDACTED]
Sent: Wednesday, January 16, 2019 6:18 PM
To: TWCPolicyComments
Subject: Unemployment insurance regulations

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Ref: The rules governing who is and who is not an independent worker should remain as they are...the TWC commissioner should not be given the authority to change them.

Tony Galaviz
San Antonio, Tx

Comment 33
Proposed Rules
Chapter 815
Marketplace

From: Jake Fernandi [REDACTED]
Sent: Wednesday, January 16, 2019 6:42 PM
To: TWCPolicyComments
Subject: Concern with TWC Recent Approval (by a 2 to 1 vote) of a Rule Classifying Website Hires as Independent Contractors and NOT Employees

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

To Whom It May Concern:

I became aware of the subject action after reading an article in the 01/16/2019 "San Antonio Express News" written by Chris Tomlinson. My concern is that TWC, with this ruling if it stands, has made a large number of Texas workers too easy, for some Texas employers, to reclassify from "employee" status to that of an "independent contractor." It will deny Texas workers legal rights and benefits that they should receive and needlessly reduce valid, moral costs that website hiring employers should pay that "brick and mortar" employers must pay.

This ruling seems unfair, biased against a major group of employees and should be decided by Texas legislative action not TWC political appointees. Before it is final within the TWC it should be reversed and voided.

I am copying my state Senator (district 26) and state Representative (district 116) on this matter as a concern for all Texas voters, workers and citizens. Please add this commentary to others you receive on this matter.

Thank you.
J. S. Fernandi

Comment 34
Proposed Rules
Chapter 815
Marketplace

From: stephen amberg [REDACTED]
Sent: Wednesday, January 16, 2019 10:02 PM
To: TWCPolicyComments
Subject: Platform employee rule

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

To the Texas Workforce Commission:

I have been a researcher of employment and labor policy for 30 years. I would like to comment on the Commission's recent decision to treat workers whose employment arrangements are made via a platform company as contractors. I believe this is a mistake.

In my judgment, these workers are employees under federal employment law. To treat them as independent contractors denies the facts of the determination of the conditions of their work and denies them their employee rights.

Your decision negatively affects thousands of workers, many of whom are working part-time and/or trying to earn income to supplement other low-paid employment. They are not contractors in any historical meaning of the term.

This issue should not be treated as a matter of power politics by the platform companies. The Commission is not the venue to make a declaration to reinterpret employment law.

Sincerely,

Stephen P. Amberg

Associate Professor
Department of Political Science
University of Texas at San Antonio
One UTSA Circle
San Antonio, Texas 78249

Comment 35
Proposed Rules
Chapter 815
Marketplace

From: David Schubert [REDACTED]
Sent: Wednesday, January 16, 2019 10:07 PM
To: TWCPolicyComments
Subject: I disagree with recent decision re independent contractor vs employees

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I completely disagree with the Texas Workforce Commission recently approved rule to allow practically anyone hired from a website to be classified as an independent contractor instead of an employee. This is taking the concept of an independent way too broadly. It also enables the owners of web-based companies make up their own rules and not have to follow the same labor regulations of brick-and-mortar companies. It gives too great an advantage to web-based companies. Actions as broad as this need to be handled by the legislators so the benefits and disadvantages can be publicly debated and not decided by a 2 to 1 vote by three appointees.

David Schubert
4127 Turnberry Circle
Houston Texas 77015

CC: Governor Abbott
: Lt Gov Patrick
State Senator
State Rep

--

David Cell 832 567 7813

Comment 36
Proposed Rules
Chapter 815
Marketplace

From: Chris Trimmer [REDACTED]
Sent: Thursday, January 17, 2019 8:29 AM
To: TWCPolicyComments
Subject: Workforce 38 Program Policy - Proposed Changes to §815.134. Employment
Status: Employee or Independent Contractor

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I am against proposed changes to classify workers as independent contractors based upon exclusive hiring via digital networks. Today the usage of digital networks is so prevalent for so many companies that its exclusive usage is a poor indicator to help determine employee status. This change could be easily abused by companies to avoid employment obligations to Texas workers.

Thank you

Chris Trimmer
* concerned Texas citizen.

Comment 37
Proposed Rules
Chapter 815
Marketplace

From: Tobias Read [REDACTED]
Sent: Thursday, January 17, 2019 10:17 AM
To: TWCPolicyComments
Subject: Independent Contractor Classification

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.
To the TWC

I'm writing in response to the recent ruling that maintains the status of workers as independent contractors in marketplace platform companies.

I'm probably a rare voice in your in-box, but I very strongly support your move for 3 very specific reasons:

Firstly these companies are creating of valuable part time roles that allow independent contractors to earn money and build up their businesses in a way that has never been possible before. I have seen a 74 year old man driving a delivery vehicle, a man who nobody else would employ, a man who was provided a new lease of life and a man who earned enough money to take his wife on an expensive vacation twice a year. This 74 year old would otherwise have been stuck in his house fading away. But he was not an employee, he loved the freedom to work when he wanted, he loved the freedom to work for whoever he wanted (and he worked for multiple platforms). Then you get young university students who can fit part time work writing software around their random schedules, mothers of young kids who can drop them off at school and work a few short hours a day. Actors working as handymen who can make auditions because they now have control over their agenda. Recently unemployed oil field workers who find an immediate opportunity to put beans on the table. Rather than criticize the GIG economy, we should applaud it for the value it has created, the taxes it helps raise and for the social good it generates. In fact we should do everything we can to promote and expand this sector. We definitely should not impose unnecessary and erroneous red tape which will only kill new efficient industry. That will only serve to reduce employment opportunities, to reduce tax income and to return us to lower quality service provision. Uber may be seen as the pariah by the media (and I don't work for Uber) but you would have to pay me to get into a yellow cab. Uber is safer and better in every capacity and in Houston where I live it has had the unintended consequence of dramatically reducing road fatalities. For that it should be applauded!

Secondly, I completely disagree with the inaccurate and politically charged sentiment expressed by Chris Thomlinson in his recent Commentary in which he stated "The rule's purpose is simple: help companies maximize profits by excluding workers from as many protections and benefits as possible. By creating a new classification for gig workers who rely on websites, the commissioners help companies avoid fundamental labor laws." His is a flawed assessment. Yes these companies are trying to be successful but they are not trying to sidestep the law or to exclude workers from protections. In the vast majority of cases these workers are correctly classified as Independent Contractors. There may be some platforms where the workers are

engaged full time, paid, insured and controlled by a platform. In those case then sure, those individuals may need to be classified as an employee. However for most platform companies the workers are Independent Contractors, they are not full time, they are not controlled, they are itinerant and they work for multiple end clients. They are therefore not employees and there is no need to try to force them to be so. What is also interesting is that nobody has ever tried to convert the taxi industry, where drivers were all independent contractors, to employee status. So why start now with new economy companies that have similar business models or yellow pages that connected placements. There is also a flawed argument that platform companies restrict the bad performers and therefore provide implicit control. Surely that is a good thing, they are raising standards (e.g. Angies list) and reducing the intense personal turmoil that can result from bad service. And it is not control of employees, it is quality control.

Thirdly, the unions and the regulators need to be careful. Trying to misclassify workers as employees and increasing red tape and providing employee benefits to an Independent Contractor community may seem the right and honorable thing to do. It will also please the government as it places the social responsibility on the shoulders of companies. However the response will be counter-productive. We will see an acceleration in advanced technologies which completely remove the worker from the equation. These industries will automate which could lead to a massive reduction in profitable employment opportunities for those people in society who benefit most. Omar the 74 year old driver. Rosemarie the single mother. Brian the student. Frank the recently unemployed oil tech. These people may lose their opportunities. Trade unions will have destroyed jobs, the government will lose tax revenues and the government will need to support a wider base of unemployed.

I appreciate it is easy for those on the outside to criticize the classification of many people as Independent Contractors, but this is based on a flawed understanding of the classification. Please don't fall into that trap and maintain the open market policies which you have developed which will help increase the long term competitiveness of Texas.

Tobias

Comment 38
Proposed Rules
Chapter 815
Marketplace

From: John Hull [REDACTED]
Sent: Thursday, January 17, 2019 10:19 AM
To: TWCPolicyComments
Cc: John Hull
Subject: Texas Register recommendations on Independent Contractor eligibility.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Political appointees at the Texas Workforce Commission do not have the right to dictate who is an independent contractor. It does not matter whether employees enter the front door, electronic mailbox, computer, Internet or mobile phone to work at a job they still should be considered employees with all the rights and benefits a 9-5, 40 hour a week employee has. Employees who are directed on how to do a particular job, by their employers, are employees and are due all the benefits an employer should be offering.

TWC should not be a mouthpiece for unscrupulous employers who want to escape any and all obligations to employees who rightfully deserve to receive benefits they work for. Anything else hints at indentured servitude status for the American worker who deserves better. TWC should represent the hard-working Americans who made this country great not some 'profit at all costs' company whose only concern is the bottom line. People first, companies second.

John Hull

Comment 39
Proposed Rules
Chapter 815
Marketplace

From: Todd Phillips [REDACTED]
Sent: Thursday, January 17, 2019 11:00 AM
To: TWCPolicyComments
Subject: workforce 38 program policy

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Your recent ruling that someone hired from a website will be classified as an independent contractor, and depriving them of employee protections and benefits is wrong. Not only does it allow companies to shirk their responsibilities to their workers, but this is a decision for the legislature, not an appointed commission. This rule should be scrapped and the matter addressed through proper legislation.

--

Todd Phillips, DVM

Comment 40
Proposed Rules
Chapter 815
Marketplace

From: Cindy Wine [REDACTED]
Sent: Thursday, January 17, 2019 11:10 AM
To: TWCPolicyComments
Subject: Independent contractor labor laws

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.
To whom it may concern,

I understand the TWC has approved a rule that classifies almost anyone hired from a website as an independent contractor. In my opinion this should be a decision for the state legislature not political appointees. This is too important a decision not to let voters have any influence, directly or indirectly.

Sincerely,

Cynthia Wine
6319 Gallery Cliff Dr
San Antonio, TX 78249

Comment 41
Proposed Rules
Chapter 815
Marketplace

From: Nancy Edwards [REDACTED]
Sent: Thursday, January 17, 2019 11:18 AM
To: TWCPolicyComments
Subject: Protect workers from Contract status

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Dear Texas Workforce Commission:

I want to comment on the Workforce 38 Program Policy which would make workers for Uber and other computer-dispatched businesses independent contractors. These people are not independent of Uber and the other companies. They are entitled to the protections that the Workforce Commission gives to regular employees.

Nancy Edwards
10601 Bassoon Drive
Houston, TX 77025

Comment 42
Proposed Rules
Chapter 815
Marketplace

From: Paula Traffas [REDACTED]
Sent: Thursday, January 17, 2019 12:07 PM
To: TWCPolicyComments
Subject: proposed rule: Marketplace Contractor definition

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Please withdraw this rule from consideration. It penalizes all the good Texas employers who treat their workers fairly by allowing the bad employers to undercut them. Most workers should be classified as employees under the law and should receive the benefits they deserve. And many of the bad employers are truly employers: they determine all the important factors in the workplace - time, place and manner the work is to be done. Changing the definition to "Marketplace Contractor" doesn't change the reality.

This decision should be made by the Legislature.

Paula Traffas
Austin TX

Comment 43
Proposed Rules
Chapter 815
Marketplace

From: David Goldweitz [REDACTED]
Sent: Thursday, January 17, 2019 12:16 PM
To: TWCPolicyComments
Subject: Glamsquad's Support for Amendment to 40 TAC § 815.134
Attachments: Glamsquad Support for Amendment to 40 TAC § 815.134.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Please see attached letter of Support for Amendment to 40 TAC § 815.134

David Goldweitz
Co-Founder & Chief Strategy Officer

Glamsquad
54 West 21st Street, Suite 301
New York, NY 10010
646-795-6470 (work)
917-566-2303 (mobile)
www.glamsquad.com
Download Our App
Try Glamsquad - Use Promo Code WELCOME15
[Instagram](#) | [Twitter](#) | [Facebook](#)

January 11, 2019

Via e-mail to TWCPolicyComments@twc.state.tx.us

TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing
101 East 15th Street, Room 459T
Austin, TX 78778

Re: Glamsquad's Support for Amendment to 40 TAC § 815.134

I am writing on behalf of Glamsquad, an on-demand beauty service-booking platform, in support of the Texas Workforce Commission's consideration of the proposed amendment to 40 TAC § 815.134.

Glamsquad's on-demand platform connects independent beauty service professionals with individuals looking to book hair, makeup, and nail services, where they choose – including their homes, hotels, or even offices. Whether helping arrange a makeup artist for a wedding or scheduling an in-home manicure for an elderly parent, Glamsquad makes booking special beauty services easy and convenient. That is why customers in Los Angeles, the San Francisco Bay area, New York City, South Florida, Boston, and Washington DC, have booked over 500,000 beauty appointments with more than 1,700 beauty professionals.

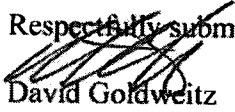
The beauty professionals who offer services on Glamsquad's platform are independent contractors. Some have their own independent businesses and are looking to grow their customer base, others work full-time in a salon, at a makeup counter, or at a nail salon and use Glamsquad to supplement their income or save for a big expense. Other beauty professionals raise families, care for loved ones, or are full-time students looking to earn money to cover their bills.

While our beauty professionals appreciate the money they earn on the platform, the flexibility and freedom that an on-demand arrangement provides them are equally important. Working with Glamsquad allows these professionals to choose when and how much to work—so that they don't have to sacrifice important personal obligations to earn a living.

The flexible working arrangements that companies like Glamsquad provide workers, however, are under attack from plaintiffs' lawyers exploiting the uncertainty created by subjective, vague, and outdated labor laws that were written long before on-demand work arrangements existed. This legal uncertainty threatens the growth and innovation of this important and blossoming part of our economy.

The rule currently being considered by the TWC goes a long way to mitigate this legal uncertainty by providing on-demand companies and the independent workers who use platforms an objective roadmap to determine the independent contractor status of platform workers. We appreciate the TWC's leadership on this issue and urge the Commission to adopt the rule as written, especially as Glamsquad looks to expand its operations to Texas, including a planned expansion to Austin in 2019.

Respectfully submitted,



David Goldweitz
Co-Founder & Chief Strategy Officer
GLAMSQUAD, Inc.

Comment 44
Proposed Rules
Chapter 815
Marketplace

From: Mary Needham [REDACTED]
Sent: Thursday, January 17, 2019 1:30 PM
To: TWCPolicyComments
Subject: new rule re the gig economy

this is sneaky, nasty and people - unfriendly!

You are political appointees. You should not be the arbiters of whether someone hired through a website automatically becomes an independent contractor.

This is fallacious reasoning and mean-spirited to boot; Texas is already trampling workers like few others - you want a few more brownie points with employers by making it still harder?? This is simply awful and although it squares with what our current president seems to think is good work, all of you ought to be ashamed.

IF this idea had real merit, it should have been brought up in daylight, not under the table as it were.

Mary Needham

--

Goodness is stronger than evil; Love is stronger than hate
Light is stronger than darkness; Truth is stronger than lies

Mary Needham
President
Reserve Technology Institute
2610A Dunlavy
Houston, TX 77006
Tel: (1) 713-521-7979
Cell: (1) 713-416-0226
Websites: www.rti-hou.com
www.fpso-subsea.com

Comment 45
Proposed Rules
Chapter 815
Marketplace

From: Olivia Howe [REDACTED]
Sent: Thursday, January 17, 2019 2:02 PM
To: TWCPolicyComments
Subject: Comment on Commission Rule 815.134
Attachments: TWC Rule Comment(1).pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Hello,

On behalf of RigUp, please see the attached letter regarding proposed Rule 815.134.

Best regards,

Olivia

Olivia Howe
General Counsel, Litigation
Office: 512-501-5452
[REDACTED] rigup.com



Texas Workforce Commissioners,

RigUp is pleased to provide affirmative commentary and support for the amendment of Commission Rule 815.134, which would provide clarity for on-demand platform business models like ours with respect to employment classification and unemployment insurance.

RigUp is the energy industry's largest and fastest-growing online marketplace, connecting independent contractors with service providers and operators, and offering the logistics that oil and gas companies need to run more efficiently. Forbes magazine describes us as the "emergent Uber of the oilfields." Since RigUp's founding in 2014, the RigUp platform has grown to include more than 250 leading exploration and production, midstream, and oil field services buyers with coverage across all oil and gas basins. Our mission is to empower the people who power the world by creating economic opportunity and building community across the strongest network in the energy industry.

RigUp is based in Austin, and we are proud to employ nearly 200 people in Texas who are helping to redefine the "gig economy" for oil and gas. As we continue to grow our business in Texas, it is important that we have certainty for further investment to operate in the state. This amendment would provide the stability we need to expand our company and allow us to offer the maximum amount of employment opportunities in the areas of our state where the oil and gas plays are showing unprecedented growth.

We want to thank you for your leadership and continued efforts to make Texas an exceptional marketplace for the growth of on-demand platforms.

Sincerely,

Xuan Yong
RigUp CEO

Comment 46
Proposed Rules
Chapter 815
Marketplace

From: Amber Gunst [REDACTED]
Sent: Thursday, January 17, 2019 4:44 PM
To: TWCPolicyComments
Subject: Support for Amendment to 40 TAC § 815.134
Attachments: Austin Tech Council Letter to TWC.docx

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Good afternoon,

Please see the attached letter.

Have a wonderful day,

Amber

--

Amber Gunst
Interim CEO, Head of Sales & Member Services

o: 512.394.8263

c: 512.740.4535



www.austintechcouncil.org

January 17, 2019

TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing
101 E. 15th St., Room 459T
Austin, TX 78778

Re: Support for Amendment to 40 TAC § 815.134

Dear Commissioners,

On behalf of the Austin Tech Council, I am writing to express the Council's support for the Amendment to 40 TAC § 815.134, which is currently under consideration by the Texas Workforce Commission.

As the oldest and largest technology industry organization in Central Texas, the Austin Technology Council represents the needs and priorities of tech and innovation companies in the region and serves as a unifying voice for our members, which include a number of on-demand platforms. Under current law, on-demand companies face vague and outdated labor laws that create operational uncertainty and the risk of costly but baseless lawsuits. The proposed rulemaking will provide our members much needed clarity and certainty as to the worker classification issues and will allow them to focus on growing their businesses instead of unnecessary legal and regulatory risks.

The ATC's mission is to support the growth of our member businesses by advocating for an environment that encourages technology and innovation, and we believe the proposed rulemaking will go far in keeping and attracting tech businesses and sustaining the region's status as a premier technology leader and influencer. We are proud to support this effort on behalf of our members and the Texans who find work through their platforms. For these reasons, the Council respectfully urges the Commission to adopt the rule as it was proposed in the Texas Register.

Thank you for your consideration.

Sincerely,

Amber Gunst
CEO – Austin Technology Council

Comment 48
Proposed Rules
Chapter 815
Marketplace

From: viviano flores [REDACTED]
Sent: Thursday, January 17, 2019 7:00 PM
To: TWCPolicyComments
Subject: TWCPOLICYCOMMENTS

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I just read an article regarding your recent approval of a rule that would classify anyone hired from a website as an independent contractor. I am in total disagreement of your vote. Who appointed you to wield this power to take away people's rights in the workplace? As I understand it Congress is the only entity able to pass bills. You people in the Workforce Commission are leaning toward profiting the companies who already give their CEOs huge bonuses at the end of the year. Why? What's in for you? If we cannot rely on you to help the little guy to the protections they are entitled to in the workplace what's next. I vehemently disagree with this new rule of yours and hope to see it nixed!

Sincerely,
Viviano Flores

Comment 49
Proposed Rules
Chapter 815
Marketplace

From: Rosa Flores [REDACTED]
Sent: Thursday, January 17, 2019 7:13 PM
To: TWCPolicyComments
Subject: Contractor rule

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I don't agree with your recent rule that would profit companies by releasing them of any responsibility to its employees by categorizing them as contractors. I believe you are stepping outside your purview, back off!

Sincerely,
Rosa Flores

Comment 50
Proposed Rules
Chapter 815
Marketplace

From: Pam Bratton [REDACTED]
Sent: Friday, January 18, 2019 5:59 AM
To: TWCPolicyComments
Subject: Proposed Rule Comments - Marketplace Contractors

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

To:
TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing

To Whom it may concern:

Meador Staffing Services, Inc., a 50 year old staffing firm headquartered in Pasadena, Texas supports this rule. In our 50 years of staffing in Texas, we have observed many changes in the worker. It is time that TWC update rules to better define the “Gig Worker”, as it did years ago better defining the differences in the temporary employee (staffing firm employee) versus the leased employee (PEO). The Gig worker has been around for many years and the advancements in technology and the ability of these workers to secure work as independent contractors has bloomed into an entire new-generation workforce and thus presents the need for TWC to define in the rule process.

Please feel free to reach out to me directly should you have any additional questions or want to discuss our support of this rule further.

Respectfully,

Pamela Bratton
Vice President, Contracts & Compliance

Pamela Bratton
Vice President
p: 512-538-1653
www.meador.com

This e-mail is the property of Meador Staffing Services, Inc. and/or its relevant affiliate(s) and may contain confidential and privileged material for the sole use of the intended recipient (s). Any review, use, distribution or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive for the recipient), please contact the sender or reply to Meador Staffing Services, Inc. at [REDACTED] and delete all copies of the message.

Comment 51
Proposed Rules
Chapter 815
Marketplace

From: John Glover [REDACTED]
Sent: Friday, January 18, 2019 6:41 AM
To: TWCPolicyComments
Subject: Workforce Editing

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

The proposed rule weakening the definition of an employee will be extremely harmful to Texas workers and the Texas economy. As an attorney, I have worked with labor staffing companies. I know how this works. Some companies do provide benefits, but the vast majority do not. Workers end up competing against each other, and the employers avoid the expense of providing health insurance, 401Ks, vacation, workmen's compensation, sick leave and employment taxes. Workers also don't have the security of knowing they have a job, or would receive any type of severance in the event their contract is not renewed. Some workers only want part time work, but the majority want full time work, benefits and protection under the state's labor laws. The TWC should be protecting Texas workers, not making it easier for large companies to shift costs to workers and deprive workers of legal protections. Despite what you may have heard from employers, they are in a better position to provide the above listed benefits and take of the administrative and expense burden.

It is no wonder the country is suffering from income disparity when the state throws it weight behind its creation. This proposed rule is morally wrong and if it become final the TWC would be abandoning its obligation to protect Texas workers.

John H. Glover
SHEINESS, GLOVER & GROSSMAN, LLP
4544 Post Oak Place Dr, Suite 270
Houston, Texas 77027
713-374-7032 Direct
713-374-7049 Facsimile
Visit our Website: <http://www.sgglawyers.com>

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Comment 52
Proposed Rules
Chapter 815
Marketplace

From: Michael Clark [REDACTED]
Sent: Wednesday, January 16, 2019 10:06 PM
To: TWCPolicyComments
Cc: Sallie Morian
Subject: Comments on bill: CHAPTER 815. UNEMPLOYMENT INSURANCE

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Comments on bill: CHAPTER 815. UNEMPLOYMENT INSURANCE

Sir or Madam,

First, we have no connection to Uber, Lyft, or any other company which hires its employees via the internet.

We are opposed to this proposed bill Chapter 815 for the following reasons.

1. Whether a person is a independent contractor or an employee should not be determined by their method of employment - if they are hired via the internet or any other method. Rather, the determination should be based on the conditions of their employment - particularly (1) how and who determines their pay, and (2) how much control they have over how their job is performed.
2. Since legislatures in four other states have already ruled against similar bills, this stands as a warning that the elected Texas legislature, not the politically appointed TWC, should decide the conditions which determine whether one is a contract employee.

Please abandon this effort and drop this bill.

Sincerely,
Michael Clark & Sarah Morian
1810 Bissonnet Street
Houston, Texas 77005 USA

+1 713 907 2348 mobile

Comment 54
Proposed Rules
Chapter 815
Marketplace

From: David Edmonson [REDACTED]
Sent: Friday, January 18, 2019 11:41 AM
To: TWCPolicyComments
Subject: TechNet comments on proposed amendments to Subchapter C, Tax Provisions, 40 TAC § 815.134
Attachments: TechNet comment letter - TWC marketplace contractors - 01.18.19.pdf

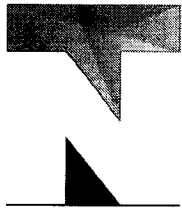
CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.
Good morning:

Attached and copy/pasted below, please find comments submitted from TechNet re: proposed amendments to Subchapter C, Tax Provisions, 40 TAC § 815.134.

Thanks,
David

--

David Edmonson
Executive Director | Texas & Southeast
TechNet | The Voice of the Innovation Economy
(c) 512.689.1050 | @TechNetSE



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

TechNet Southeast | Telephone 512.689.1050
208 West 14th Street, Austin, TX 78701
www.technet.org | @TechNetUpdate

January 18, 2019

Texas Workforce Commission Policy Comments
Workforce Policy Program
Attn: Workforce Editing
101 East 15th Street, Room 459T
Austin, TX 78778

Via email: TWCPolicyComments@twc.state.tx.us

RE: Comments on proposed amendments to Subchapter C, Tax Provisions,
40 TAC § 815.134

To Whom It May Concern:

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents more than three million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

Our members appreciate the hard work and effort the Texas Workforce Commission (TWC) put into developing the proposed rules, which will provide clarity for marketplace platforms and the application of unemployment insurance rules to their business models.

The proposed rules will allow marketplace platforms to continue to thrive and expand in Texas, creating additional opportunities for Texas workers to support themselves and their families. After all, the modern, independent workforce requires a flexible work environment that allows workers to find opportunities that best match their skills, interests, and availability. Perhaps the biggest benefit to this new workforce is the flexibility that self-employment and independent contracting provide, which allows the independent workforce to balance work, family, and leisure activities differently than employees.

We are appreciative of the overall thrust of the rules, but we are requesting additional clarity on certain provisions in order to avoid potential unintended consequences.

Section 815.134(b)(2)(H), which sets out one of the nine conditions that must be met to meet marketplace contractor status, requires “[t]he marketplace platform [to] not control the details or methods for the services performed by a marketplace contractor by requiring the marketplace contractor to follow specified instructions governing how to perform the services.” Many of our members’ platforms include in-app maps to guide the contractor as they pick up the items and complete drop-off, and they are seeking assurance that the in-app mapping and other guidance tools will not prevent a worker from achieving marketplace contractor status. Similarly, there are concerns that the language in § 815.134(b)(2)(H) could disallow the use of community standards outlining appropriate behavior for contractors, and we are accordingly requesting clarification.

Concerns with § 815.134(b)(2)(H) could be alleviated with the introduction of additional language similar to the following: “[f]or purposes of this section, a marketplace platform shall not be deemed to control the details or methods for the services performed by a marketplace contractor by maintaining deactivation standards related to health and safety, the completion of services, and customer ratings; facilitating the provision of instructions between marketplace participants; or enabling the marketplace contractor to follow maps-based directions.”

Section 815.134(b)(2)(G) states that “[t]he marketplace contractor is responsible for providing the necessary tools, materials, and equipment to perform the service or services.” TechNet members request clarification that the optional provision of certain basic supplies – e.g., insulated bags to allow deliveries to be made – would not violate the marketplace contractor test laid out in § 815.134(b)(2). Concerns with § 815.134(b)(2)(G) could be resolved by stating that “[t]he marketplace contractor is *substantially* responsible for providing the necessary tools ...”

Section 815.134(b)(2)(I) states that “[t]he marketplace platform does not require the contractor to attend mandatory meetings or mandatory training.” Many TechNet members provide basic orientation to contractors regarding how to use the marketplace platform. As a result, we are requesting clarification that education on the use of the marketplace platform’s digital application or website will not prevent marketplace contractor status.

Section 815.134(b)(2)(A) states that “[t]hat all or substantially all of the payment paid to the contractor shall be based on the performance of services on a per-job or transaction basis.” Our members would prefer that completion of the services rather than performance be the specified standard. Additionally, many independent contractors are paid on an hourly basis, and TechNet members are requesting that the rules specifically make an allowance for this type of payment arrangement.

Finally, § 815.134(b)(1)(B)(ii) lays out part of the definition of marketplace platform by requiring that a platform “accept[] service requests from the public

only through its digital network, and does not accept service requests by telephone, by facsimile, or in person at physical retail locations." Companies could permit the visually impaired to place orders or receive other services via telephone, and a company that makes such a reasonable accommodation for access should not be excluded from the definition of a "marketplace platform."

Again, we appreciate the TWC's ongoing efforts to update unemployment insurance rules to provide clarity for companies operating in the new economy. We look forward to continued engagement between TWC, TechNet, and TechNet member companies.

If you have any questions, please do not hesitate to reach out.

Sincerely,

A handwritten signature in black ink, appearing to read 'D Edmonson', with a long horizontal flourish extending to the right.

David Edmonson
Executive Director

Comment 55
Proposed Rules
Chapter 815
Marketplace

From: Melanie Goggins [REDACTED]
Sent: Friday, January 18, 2019 12:17 PM
To: TWCPolicyComments
Cc: Carter Stern; Rachelle Celebrezze; Lucas Muñoz
Subject: Lyft Comments re: Proposed Rules to Chapter 815 (Attn: Workforce Editing)
Attachments: Lyft Comments - Texas Workforce Commission Proposed Rules on Independent Contractor Status.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Hello,

Please find attached Lyft, Inc's comments related to the proposed amendments to Chapter 815. Lyft recommends that the TWC explicitly state that the proposed amendments do not modify Section 2402.114 of the Texas Occupations Code.

Lyft appreciates the opportunity to comment on the proposed amendments and thanks the TWC for its consideration. We are available by phone at 703-994-6051 or by email at [REDACTED] if you have any further questions.

All the best,
Melanie Goggins

--

Melanie Goggins
Compliance Manager



January 18, 2019

Attention: Workforce Editing
Texas Workforce Commission Policy Comments
Workforce Program Policy
101 East 15th St, Rm 459T
Austin, Texas 78778

VIA ELECTRONIC FILING

To the Texas Workforce Commission:

Lyft, Inc. ("Lyft") appreciates the opportunity to comment on the Texas Workforce Commission (TWC)'s proposed amendments related to unemployment insurance. Lyft recommends that the TWC explicitly state that the proposed amendments do not modify Section 2402.114 of the Texas Occupations Code.

As you may know, Lyft is classified under Texas law as a transportation network company ("TNC"), which is defined in part as an "entity that, for compensation, enables a passenger to prearrange with a driver, exclusively through the entity's digital network, a digitally prearranged ride. (TX OCC § 2401.001)"

Lyft and other TNCs are regulated by Chapter 2402 of the Texas Occupations Code. That chapter explicitly provides that a driver who is authorized to log into a TNC's digital network is not considered an employee if certain conditions are met. Specifically, Sec. 2402.114 of the Texas Occupations Code provides:

"A driver who is authorized to log in to a transportation network company's digital network is considered an independent contractor for all purposes, and not an employee of the company in any manner, if:

(1) the company does not:

- (A) prescribe the specific hours during which the driver is required to be logged in to the company's digital network;
- (B) impose restrictions on the driver's ability to use other transportation network companies' digital networks;
- (C) limit the territory within which the driver may provide digitally prearranged rides; or

- (D) restrict the driver from engaging in another occupation or business;
and
- (2) the company and the driver agree in writing that the driver is an independent contractor.”

In establishing Chapter 2402 of the Texas Occupations Code, the Texas Legislature intentionally created this standard to clarify TNCs’ business model and guard against overregulation. In keeping with this legislative intent, Lyft asks the TWC to explicitly clarify that its amendments do not modify Section 2402.114 of the Texas Occupations Code.

To that end, Lyft suggests adding the following bolded and italicized language to the proposed rule in section 815.134(b)(3).

- “(3) This section shall not apply to any of the following:
 - (A) Services performed in the employ of a state, or any political subdivision of the state, or in the employ of an Indian tribe, or any instrumentality of a state, any political subdivision of a state, or any Indian tribe that is wholly owned by one or more states or political subdivisions or Indian tribes, but only if the services are excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. §3301 - 3311, solely by reason of §3306(c)(7) of that Act.
 - (B) Services performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if the services are excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. §§3301 - 3311, solely by reason of §3306(c)(8) of that Act.
 - (C) Services performed by marketplace platforms regulated as Professional Employer Organizations and professional employer services under §§91.001(14) and (15) of the Texas Labor Code.
 - (D) Services performed by temporary employees and temporary help firms as defined in §§201.011(20) and (21) of the Texas Labor Code.
 - (E) ***Services performed by a transportation network company driver regulated under §2402.114 of the Texas Occupations Code.***

Thank you for allowing Lyft to provide comments on the proposed amendments to Chapter 815. We welcome any questions about our submission, and can be reached by email at [REDACTED] or by phone at 703-994-6051.

Kind regards,

Melanie Goggins
Regulatory Compliance
Lyft

Comment 56
Proposed Rules
Chapter 815
Marketplace

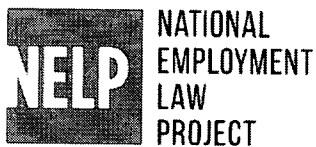
From: Rebecca Smith [REDACTED]
Sent: Friday, January 18, 2019 12:56 PM
To: TWCPolicyComments; Porter, Marla R; Reisman, Jessica W;
carrie.alvis@twc.state.tx.uw; Fuentes, Regina G
Subject: Resending NELP comments on Rule 814.134 - 1 of 2
Attachments: TWC Comments 1.17.19.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I am resending these documents, because it is unclear to me that they went through your system. Please confirm that you have received them, and apologies for duplication. Thank you.

Rebecca Smith
Director of Work Structures
National Employment Law Project
317 17th Ave S
Seattle, WA
98144
Phone: (206) 324-4000 |
[REDACTED]

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Rule comment

National Employment Law Project

Comments on Texas Workforce Commission proposed rule § 815.134

Submitted via e mail to TWCPolicyComments@twc.state.tx.us.

January 18, 2019

TWC Policy Comments, Workforce 38 Program Policy


Attn: Workforce Editing

101 E. 15th St., Room 459T

Austin, TX 78778

Rebecca Smith
Director, Work Structures Portfolio
National Employment Law Project
317 17th Ave S.
Seattle, WA 98144

90 Broad Street
New York, NY 10038

206.324.4000


The National Employment Law Project (NELP) is a national legal, research and policy organization. For decades, we have focused on the ways in which employers structure work arrangements outside the traditional employment relationship – for example, through subcontracting, temporary and staffing agencies, franchisee models, or independent contractor arrangements. These work structures too often drive labor standards erosion, rising income and wealth inequality, enduring and evolving structural racism and occupational segregation, and the shifting of power away from workers and toward corporations. While contracting out non-core jobs like payroll administration or pest control can represent a legitimate and efficient business decision, depending on the business, contracting out can also shift economic risk away from employers and onto workers, without justification. In many cases, subcontracting arrangements are simply a tactic to avoid compliance with labor laws. Most recently, NELP has researched, written and developed policy on the on-demand economy, as one facet of this subcontracting trend. We have talked directly with workers and worker organizations, studied the academic research and worker surveys, developed policy, and written and spoken publically on this topic.

NELP submits these comments in opposition to the proposed Texas Workforce Commission rule §815.134. The Texas Workforce Commission has no legally justified basis for adopting this rule and has offered no justification for the necessity to deviate from its long-standing 20-part test to determine employee status under the law for companies it is calling “marketplace platforms.” The proposed rule overlooks the real relationships between many on-demand companies and their workers, and codifies potential misclassification of these – and many other - workers as independent contractors. As outlined below, based on NELP research, the on-demand companies are engaged in a multi-million dollar effort to carve themselves out of state workers’ rights and safety net protections. The proposed rule robs the state unemployment insurance fund of premiums, and privileges well-capitalized tech companies from out of state at the expense of locally-based brick and mortar companies.

The Texas Workforce Commission (TWC or Commission) has offered no legally justified basis to create a new test for employee status for marketplace platforms.

The Commission relies on its rulemaking authority under § 301.0015(a)(6) of the Texas Labor Code to enact this exemption. While the Commission has rule-making powers, its rule-making must be within the parameters of Texas law. This proposed exemption is nowhere expressly authorized in state law and the Commission has not even attempted to explain why so-called marketplace platforms are sufficiently different from other companies that a separate test is necessary or desirable. Nor does the Commission even attempt to explain why the current test does not work to determine “employment” for marketplace platform companies.

Texas has existing definitions of covered employees and employers under its Unemployment Insurance statute: “employment” means a service, including service in interstate commerce, performed by an individual for wages or under an express or implied contract of hire, unless it is shown to the satisfaction of the Commission that the individuals performance of the service has been and will continue to be free from control or direction under the contract and in fact. Tex. Labor Code § 201.041.

The Commission has developed a multi-factor common-law test that it uses to apply that statutory definition. See 40 Tex. Admin. Code § 815.134 (2010). The proposed rule deletes or dilutes half of the elements of this test, unduly narrowing it, without explanation. For example, the proposed rule says

nothing about the current Code's factor three, that considers whether services of an employee are integrated into a firm's business. This factor is very important because it defines those workers who could be treated as direct employees by a company whose sole business purpose is to provide drywall installers, for instance. It deletes Code factors four and five, which state that services rendered personally indicate employee status. It deletes Code factor six, which considers continuous employment. It ignores factor eleven, which indicates that where workers are required to make reports to the business – where work is supervised – an employment relationship is indicated. It deletes factors 15 and 16, which ask whether the individual worker has invested capital in a separate business, and that worker's ability to realize profit and loss. Finally, it deletes factors 19 and 20, governing at-will employment. All of these factors derive from the common-law test of employment, and are critical indicators of the existence (or non-existence) of an employment relationship.

The proposed rule thus deviates substantially from Texas' statutory definition and long-standing analysis of "control," and this unexplained deviation is critical to analysis of the relationship between so-called "marketplace platforms" and their workers, who are called "independent contractors" by most on-line on-demand labor platforms. In two recent cases, *Critical Health Connection v. TWC*, 338 S.W. 3d 758 (2011), and *Tochril v. TWC*, 2016 WL 3382747 (Tex. App. Texarkana, 2016), Texas courts found workers in similar work structures as platform workers to be "employees." In each, health care workers, who were dispatched to work in individual homes, were found under the 20-factor test to be covered employees under state law. Similar to platform workers, in *Tochril*, the workers were told they had discretion to work "when they want, if they want, and where they want." However, the courts looked beyond these representations to the actual relationship between the workers and the businesses for whom they worked. For example, the providers' work was fully integrated into the businesses that engaged them. The workers' wages were set by the companies, such that they had no opportunity for profit or loss. The workers were required to submit reports to the business. Like platform workers, the providers could work for other companies.

The TWC's proposed rules delete more than half of the factors that the Texas courts found important in these two key cases, without explanation. It is likely that under the proposed rules, were these businesses to take their companies online and restyle themselves as "marketplace platforms," these workers would be considered independent contractors.

The TWC wrongly relies on specific statutory exclusions from UI that are specifically authorized by the legislature to justify this proposed rule that is NOT the result of legislative action. As the TWC acknowledges, Texas has particular statutes that create special rules for certain businesses. For example, professional employer organizations, (Tex. Lab. Code Chap 91), temporary employment services (Tex. Lab. Code chap 93), and transportation network companies (Tex. Occ. Code § 2402.114), domestic service workers, Tex. Lab. Code 201.027; certain farmworkers, Tex. Lab. Code § 201.028, 047; certain delivery workers and salespeople, Tex. Lab. Code § 201.042; services on American vessels, Tex. Labor Code § 201.045; services performed for Native American tribes, Tex. Lab. § Code 201.048; product demonstrators, Tex. Lab. Code § 201.070; insurance agents, Tex. Lab. Code § 01.071; real estate brokers, Tex. Lab. Code § 201.072, and newspaper delivery services, Tex. Lab. Code § 201.073. But it is the legislature that has established particular conditions under which workers in certain sectors are excluded from coverage under unemployment insurance, not the Commission. Since the Texas legislature has not seen fit to exclude workers on "marketplace platforms" from coverage under the law or to subject them to specialized tests, the Commission is acting without legal authority.

The Commission states in the preamble to the proposed rule that “not all 20 common law factors may apply” to a fact pattern, as a partial justification for its shortened list of factors. But that statement copied from the Texas Payday rules is clearly meant to cover situations where a particular factor is not applicable to a fact pattern of a claimant’s job— not situations in which multiple factors are highly relevant, but the Commission chooses to ignore it. In fact, the truncated list of factors under consideration seems geared to dictate a single outcome – that the businesses are not employers. The effective difference between the TWC’s rule and a wholesale marketplace platform-based exclusion is that exclusions are only authorized by the Texas Legislature.

Subject to litigation and unfavorable decisions around the country, the online on-demand labor platform industry is seeking to rewrite the laws in its favor.

By proposing this special exemption, the Commission has fallen prey to an aggressive campaign by online labor platforms to gain exemptions from the law. Numerous on-demand companies, such as Uber, Lyft, Homejoy, Postmates, TryCaviar, and Amazon PrimeNow, are now or have been the subjects of litigation challenging their practice of treating workers as independent contractors.¹ At least 7 class action lawsuits are pending against Handy, which calls its housekeepers and domestic workers “independent contractors.” In Texas, drivers have sued Uber for misclassifying them as independent contractors and violating wage laws.²

Due to forced arbitration clauses that prevent workers from litigating in public courts, few cases have reached trial; however, when courts and state agencies are able to look at the underlying facts, they have repeatedly found that platform workers are employees.³ The companies would thus prefer that courts and agencies be restricted to a short list of factors that entirely favor the companies. At least one company’s lobbyist has been clear in public statements that they are attempting to gain special treatment from state legislatures to derail litigation against them.⁴

Online labor platforms are not the yellow pages; “marketplace platform” workers are subject to strict controls imposed by the companies.

As has apparently happened in Texas, certain on-demand companies have advanced, in state legislatures across the country, an argument that they are marketplaces, akin to the telephone yellow pages. A true marketplace is a place where small businesses can freely offer their services to the public: they can list their availability for jobs that they design; directly reach customers with whom they are able to develop an ongoing business relationship; set their own prices and fees, under standards they are free to negotiate directly with their customers. In short, in a true marketplace, small businesses are capable of realizing a profit in a free market.

The majority of these online companies, however, are not true marketplaces. Were the TWC to examine the relationship between the companies and their workers – something it has not done – it would find that its current 20-factor test is both entirely relevant and entirely sufficient to gauge whether online on-demand companies are employers under state law. Companies like Uber and Handy – the two companies most frequently publically identified with soliciting special treatment by state legislatures⁵ - are not mere marketplaces: They unilaterally set pay rates, substantially control when, where, and how people work, and impose discipline and firing on those that do not meet rigid standards that they also set unilaterally—just like any other employers.

Handy, an online platform providing domestic and home care workers that is frequently publically quoted as lobbying for carve-outs like the instant proposed rule, sets payment rates unilaterally and charges workers penalty fees (that must be sometimes paid off through working future jobs), such that workers are unable to realize a profit or loss from their work. These fees include fees for background checks, fees if they need to cancel a job, and fees if they leave the platform, according to reports.⁶ The company exerts substantial control over its workers: One lawsuit alleges that Handy requires its cleaners to wear its insignia on their clothing, tells its cleaners specifically how to interact with the customer at all times, tells cleaners when and how they can use the bathroom in a home they're cleaning, and forbids them from listening to music, using helpers, or answering a phone call while on duty.⁷ According to workers, termination is abrupt, arbitrary, and unfair, with no recourse or clear process. Once terminated from the platform, workers no longer have access to their information on pay, hours, etc. Like other platforms, Handy prohibits its workers from developing a client base offline – one of the hallmarks of a true independent business.

Uber similarly sets workers' pay, and regularly makes unilateral changes to driver's pay and work conditions.⁸ Using its technology, Uber closely supervises drivers, tracking their every movement, including the speed at which the car is driven and the route taken for each ride.⁹

These companies, and other online platforms, have very little in common with the yellow pages, where an independent businessperson can set its own rates, build its own clientele, negotiate standards with its customers and work free from surveillance. The companies have more in common with the workers who were the subject of the Texas Supreme Court and Court of Appeals decisions noted above. The structure of their work should be examined under existing law.

TWC's rule codifies misclassification of workers as independent contractors, in conflict with its efforts to end the illegal practice.

The tax break that the TWC is offering "marketplace platforms" is at odds with evidence that misclassification is widespread in Texas, as it is nationally, and with the state's own efforts to curb misclassification.

The U.S. Department of Labor has found that as many as 30 percent of firms misclassify their employees as independent contractors, and studies commissioned by state governments often cite estimates that are even higher.¹⁰ These studies suggest that millions of workers nationally may be misclassified, and the studies likely underestimate the true scope of misclassification. Many of the studies are based on unemployment insurance tax audits of employers registered with the state's UI program itself.¹¹

Misclassification occurs across many industries, from construction, technology, and homecare, to warehousing and materials moving, delivery, and janitorial.¹² Specific to the construction industry in Texas, a 2009 study found that 38% of the construction workers in the Austin area were misclassified.¹³ For a 2012 study, researchers from the Workers Defense Project surveyed 1,194 construction workers, conducted in-depth interviews with workers and employers, and analyzed government data, finding that at least 41% of Texas construction workers are misclassified as independent contractors or paid off-the-books in cash or by check.¹⁴

In 2015, the Commission, recognizing that misclassification is a critical issue in Texas, entered into a Memorandum of Understanding with the US Department of Labor, with the specific and mutual goals of providing clear, accurate, and easy-to-access outreach to employers, employees, and other stakeholders, and of sharing resources and enhancing enforcement by conducting joint investigations and sharing information consistent with applicable law.¹⁵

Giving a tax break to online platform companies hurts small businesses in Texas.

The Commission's finding that there is no anticipated adverse economic impact on small businesses is incorrect. Many of the online companies known to be lobbying for exemptions from compliance with labor law are not small startups in need of special help; in fact, they are valued in the tens of billions of dollars. Uber's latest valuation is 68 billion.¹⁶ Others, including Lyft and Grubhub, are also valued in the tens of billions. Ahead of its potential initial public offering, Lyft's underwriters proposed a valuation range of \$18 billion to \$30 billion, with a target of \$25 billion. GrubHub Inc., the \$11 billion food-delivery company, trades at 11.2 times its 2018 revenue estimates.¹⁷ In this context, the TWC's rule is deeply unfair to brick and mortar businesses in Texas that pay their taxes. As the attached Appendix shows, the rule would potentially affect a wide variety of brick and mortar companies engaging and dispatching workers, from nurses to cleaners and caregivers, drivers, janitors, tech support workers, plumbers and electricians. In fact, some 10% of Texas jobs could be affected according to our research.

In addition, the costs to state government could be enormous, contrary to the TWC assertion that there would be "no additional estimated costs to the state and to local governments." Brick and mortar companies in industries where workers are regularly dispatched will be forced to move to an online business model. In Colorado, the state Legislative Council estimated that a similar carve-out bill would result in 5% of employees being reclassified as independent contractors—at a cost to the state of \$22.6 million a year in unemployment insurance premiums alone.¹⁸ Expressing the concerns of small business about the marketplace platform carve-outs, the Cincinnati owner of a maid service told CNN Money that the bills will lead existing employers to convert to a lower-cost independent contractor model in order to compete. "It won't just be Handy, it'll be all of these virtual companies that are out there now," he said.¹⁹

While it would be difficult to quantify those losses without further information, the 2009 study referred to above found that 38% of the construction workers in the Austin area were misclassified, and that this misclassification resulted in an estimated loss of at least \$8,618,869 in federal taxes and state unemployment taxes.²⁰ Adopting this rule can only cost the state millions more in uncollected payroll taxes.

Conclusion

The proposed rule from the Commission is ill-advised and not authorized by law. Were the Commission to consider the relationships of on-demand platform workers to the companies they serve, it would likely find that many are employees and covered under the law. The Commission has failed to consider the deleterious effects on workers, small business, and the state itself in proposing this rule.

¹ See "On-demand Workers Should be Covered by Workers' Compensation," National Employment Law Project, (Jun. 2016), <http://www.nelp.org/publication/on-demand-workers-should-be-covered-by-workers-compensation/>.

² Marc Ramirez, "Texas Uber Drivers Sue Company Seeking Full Employee Status, Back Pay," DALLAS NEWS, (Jun. 30, 2017), <https://www.dallasnews.com/news/transportation/2017/06/30/texas-uber-drivers-sue-company-seek-full-employee-status-back-pay>.

³ See: Advisory Opinion on the Employment Status of Uber Drivers (Oregon Bureau of Labor and Industry, Oct. 14, 2015), <http://uberlawsuit.com/Oregon.pdf>; Berwick v. Uber Technologies, Inc., No. 11-46739, 2015 WL 4153765, (CA Labor Commissioner, Department of Industrial Relations, Division of Labor Standards Enforcement, Jun. 4, 2015); Uber, No. 4371509 (California Unemployment Appeals Board, Jun. 1, 2015); No. 016-23858, (NY Unemployment Insurance Appeals Board, Jun. 9, 2017)(Uber); No. 015022526 (NY Unemployment Insurance Appeals Board, Jun 9, 2017)(Taskrabbit); No. 015-22529 (NY Unemployment Insurance Appeals Board, Jun 9, 2017)(Postmates); In the Matter of the Petition for a Finding of the Failure to Insure Workers' Compensation Liability, and Assessment of a Civil Penalty Against, Uber Technologies, Inc and Rasier LLC, 2015 WL 4699265 (Alaska, Department of Labor and Workforce Development, Jul. 31, 2015); Lowman v. Unemployment Compensation Board, No. 686 C.D. 2016 (Pennsylvania Commonwealth Court, January 24, 2018).

⁴ "If starting with the harder states failed, we're taking a shot at something's that a little faster," said venture capitalist and political strategist Bradley Tusk, whose firm Tusk Ventures ran Uber's state legislative campaign and now represents Handy. "What is ultimately a better business decision? To try to change the law in a way that you think works for your platform, or to make sure your platform fits into the existing law?" Lydia DePillis, "For Gig Economy Workers in These States, Rights are at Risk," CNNMONEY, Mar 14, 2018, <http://money.cnn.com/2018/03/14/news/economy/handy-gig-economy-workers/index.html>.

⁵ Lydia DePillis, "For Gig Economy Workers in These States, Rights are at Risk," CNNMONEY, Mar .14, 2018, <http://money.cnn.com/2018/03/14/news/economy/handy-gig-economy-workers/index.html>.

⁶ Neils van Doorn, "Late for a job in the gig economy? Handy will dock your pay," QUARTZ AT WORK, Oct. 3, 2018, <https://qz.com/work/1411833/handy-charges-fees-to-its-workers-for-being-late-or-canceling-jobs/>.

⁷ Kevin Montgomery, "Handy Sued for Being a Hellscape of Labor Code Violations," VALLEYWAG, Nov. 12, 2014, <http://valleywag.gawker.com/handy-sued-for-being-a-hellscape-of-labor-code-violatio-1657889316>; Maya Kosoff, "Two Workers Are Suing a Cleaning Startup Called Handy over Alleged Labor Violations," BUSINESS INSIDER, Nov. 12, 2014, <https://www.businessinsider.com/handy-cleaning-lawsuit-2014-11>.

⁸ Alex Rosenblat, Uber May Have Imposed 12-Hour Driving Limits, but It's Still Pushing Drivers in Other Troubling Ways, SLATE, Mar. 2, 2018, <https://slate.com/technology/2018/03/uber-may-have-imposed-12-hour-driving-limits-but-its-still-pushing-drivers-in-other-troubling-ways.html>.

⁹ Alex Rosenblat, *When Your Boss is an Algorithm*, NEW YORK TIMES, Oct. 12, 2018, <https://www.nytimes.com/2018/10/12/opinion/sunday/uber-driver-life.html?smid=tw-nytopinion&smtyp=cur>.

¹⁰ Lalith de Silva et al., Independent Contractors: Prevalence and Implications for Unemployment Insurance Programs, i-iv, prepared for U.S. Planmatics, Inc. (Feb. 2000), <http://wdr.doleta.gov/owsdrr/00-5/00-5.pdf>; National Employment Law Project (NELP), Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries, December 2017, <http://www.nelp.org/publication/independent-contractor-misclassification-imposes-huge-costs-on-workers-and-federal-and-state-treasuries-update-2017/>.

¹¹ NELP, *id.*

¹² Rowe, New Jersey's Supply Chain Pain: Warehouse and Logistics Work Under Wal-Mart and Other Big Box Retailers (2012); Jason Sturna, et al., Unsafe and Unfair: Labor Conditions in the Warehouse Industry, Policy Matters: A Quarterly Publication of the University of California, Riverside (2012); David Weil, Market Structure and Compliance: Why Janitorial Franchising Leads to Labor Standards Problems (Boston Univ. School of Mgmt., Working Paper 2011); Steven Greenhouse, Among Janitors, Labor Violations Go with the Job, NY Times, July 13,

2005, at A19. Francoise Carre, (In)dependent Contractor Misclassification, Economic Policy Institute, June 8, 2015, at 11, <https://www.epi.org/publication/independent-contractor-misclassification/>.

¹³ Building Austin, Building Injustice: Working Conditions in Austin's Construction Industry, Workers Defense Project in collaboration with the Division of Diversity and Community Engagement at the University of Texas at Austin (June 2009), http://www.buildaustin.org/Building%20Austin_Report.pdf.

¹⁴ Build a Better Texas: Construction Working Conditions in the Lone Star State, Workers Defense Project in collaboration with the Division of Diversity and Community Engagement at the University of Texas at Austin (January 2013), http://www.workersdefense.org/Build%20a%20Better%20Texas_FINAL.pdf.

¹⁵ Agreement between the U.S. Department of Labor, Wage and Hour Division and the State of Texas – Texas Workforce Commission, Effective: February 15, 2015, <https://www.dol.gov/whd/workers/MOU/tx.pdf>.

¹⁶ Yves Smith, "Uber is Headed for a Crash," NEW YORK INTELLIGENCER, Dec. 4, 2018, <http://nymag.com/intelligencer/2018/12/will-uber-survive-the-next-decade.html>.

¹⁷ Alex Barinka and Eric Newcomer, "Uber Valued at \$120 Billion in an IPO? Maybe," BLOOMBERG, Oct. 15, 2018, <https://www.bloomberg.com/news/articles/2018-10-16/uber-valued-at-120-billion-in-an-ipo-maybe>.

¹⁸ Legislative Council Staff, Fiscal Note, SB 18-171 (Feb 26, 2018), https://leg.colorado.gov/sites/default/files/documents/2018A/bills/fn/2018a_sb171_00.pdf.

¹⁹ DePillis, *supra*, n. 1.

²⁰ Building Austin, Building Injustice: Working Conditions in Austin's Construction Industry, Workers Defense Project in collaboration with the Division of Diversity and Community Engagement at the University of Texas at Austin (June 2009), available at http://www.buildaustin.org/Building%20Austin_Report.pdf.

Comment 58
Proposed Rules
Chapter 815
Marketplace

From: David Toomey [REDACTED]
Sent: Friday, January 18, 2019 3:59 PM
To: TWCPolicyComments
Subject: Commission Rule 815.134 Support Submission
Attachments: Texas_Commission_Rule_815.134_Support_Letter_-bill_shipt.com.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

On behalf of Shipt, Inc., and our CEO Bill Smith, please find our attached letter in support of Commission Rule 815.134.

Best regards,
-David

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David Toomey
Senior Corporate Counsel • San Francisco, CA • 408-592-1029 • shipt.com



shipt.com

17 20th St N Suite 100,
Birmingham, AL 35203

Bill Smith
CEO/Founder

205 502-2500

January 18, 2019

Via e-mail (TWCPolicyComments@twc.state.tx.us)

TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing
101 East 15th Street, Room 459T
Austin, TX 78778

Re: Support for Amendment to Commission Rule 815.134

On Behalf of Shipt, Inc., I am writing in support of the amendment to Commission Rule 815.134 (Texas Register, December 21, 2018).

Created in 2014, Shipt was founded on the mission of simplifying peoples' lives by offering a new, convenient marketplace connecting retailers with customers through an e-commerce shopping experience. Shipt's marketplace gives members the ability to browse, search, and shop the in-store assortment of products online. Members can note preferences, choose a one-hour delivery window, and pay for their order, all within Shipt's app. The Shipt Marketplace also connects customers with a network of individuals working as shoppers who will shop the customer's order, and deliver the items directly to their door.

Shipt launched in Texas in 2015 and is now available in over 28 metro areas across the state, from El Paso to Beaumont and from Lubbock to Brownsville. Our efficient and simple shopping experience is now available to hundreds of thousands of households in the state, and our platform is relied on by hundreds of Texas who value the type of flexible work model we created.

Shipt and other companies in what is frequently called the "on-demand" economy have revolutionized how consumers obtain goods and services, and we have created new economic opportunities and flexible work options in the state that never existed before. But our laws must also be modernized to meet the needs of these new work models. We believe the Commission's proposed amendment to Rule 815.134 helps achieve this goal by updating the rules governing classification for unemployment insurance purposes. We support the proposal and appreciate the Commission's leadership on this important issue.

Thank you for taking Shipt's views into account. Please contact me if you have any questions or need any further information.

Respectfully submitted,

Bill Smith

Bill Smith
Founder & CEO
Shipt, Inc.

Comment 59
Proposed Rules
Chapter 815
Marketplace

From: Daniel Guzman [REDACTED]
Sent: Friday, January 18, 2019 4:08 PM
To: TWCPolicyComments
Subject: Chapter 815 Proposed Rule Changes
Attachments: Favor Letter to TWC.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Texas Workforce Commissioners,

Attached please find a letter in support of proposed rule 815.134(b).

Best regards,

Daniel E. Guzman
Head of Legal
(512) 806-0694
FAVORDELIVERY.COM



January 18, 2019

Texas Workforce Commission
Workforce Program Policy
101 East 15th St, Rm 459T
Austin, Texas 78778
Attn.: Workforce Editing

Re: Chapter 815 Rule Changes

Texas Workforce Commissioners,

I am writing in support of proposed rule 815.134(b) (the "Proposed Rule") on behalf of NeighborFavor, Inc. ("Favor"), a mobile app-based digital platform which facilitates on-demand deliveries by connecting users with independent couriers. We strongly support the Proposed Rules and believe they will benefit all players in the gig economy ecosystem: technology companies, marketplace contractors, and end-users.

We understand that the Proposed Rules are merely intended to codify the Commission's current application of Section 821.5 factors to digital networks and marketplace contractors without substantively altering them. We applaud this proactive approach by the Commission, which provides clear guidance for marketplace platforms while avoiding costly and time-consuming litigation. We are also impressed by the forward-thinking shown by the Commission to address a rapidly growing sector of the economy and increasingly important source of earnings for Texans.

The clarity provided by the Proposed Rules would give marketplace platforms the certainty needed to continue making significant investments in Texas. It would also help secure the freedom of marketplace contractors to continue providing services using any platform they desire while maintaining flexibility and control over when, where, and how they decide to earn.

To the extent Favor offers any comment, it is with an eye toward ensuring the Proposed Rules offer as much clarity as possible. With that in mind:

1. Section 815.134(b)(1)(B)(ii) contemplates that requests for service will be accepted exclusively via a digital network and excludes the possibility of requests being made by phone or other means. Digital networks, however, may allow for submission of requests by phone or other means to accommodate individuals with disabilities. As a proud supporter of disability rights, Favor suggests adding the phrase, "except as required to accommodate an individual with a disability."
2. Sections 815.134(b)(1)(A) and (b)(1)(A)(ii) use the word "public," whereas (b)(1)(B) uses "third-party individuals or entities." In the interest of consistency, Favor suggests the phrase "the public (including third-party individuals or entities)" be used in all three instances.




3. In Section 815.134(b)(2)(A), the phrase "performance of services" could be replaced with "completion of services" to remain consistent with the nature of independent contractor engagements, which most commonly focus on end results.
4. In Section 815.134(b)(2)(B), it may be advisable to follow the example of legislation in Tennessee and Indiana which clarifies that offering a marketplace contractor the ability to voluntarily schedule themselves does not constitute a prescription of hours.

I would like to thank you for the opportunity to comment on the Proposed Rules and repeat Favor's full support for same. If you would like to discuss our comments further, please do not hesitate to contact me at [REDACTED]

Sincerely,

NeighborFavor, Inc.

By: 
Daniel E. Guzman
Managing Counsel

From: Glenn Laumeister [REDACTED]
Sent: Friday, January 18, 2019 4:34 PM
To: TWCPolicyComments
Subject: Pass this bill please!
Attachments: In support of TEXAS!.docx

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Please see attached in support of this bill and allowing workers to find more opportunities to maximize their income and work schedules.

While we are based in NY we have thousands of workers on our platform and we operate in every state. What you do here can really make Texas attract more jobs and improve pay for many workers.

Best,

Glenn

Glenn Laumeister
CEO

Watch the video-see AllWork's awesome platform in action!

(347) 486-6360 | allworkknow.com

AllWork Inc.
276 5th Avenue, Suite 206
New York, NY 10001

Here's my calendar link to make finding a time easy.

On-demand workforce management platform

www.linkedin.com/in/glennlaumeister/



Powering the on-demand workforce

January 18, 2019

To Whom It May Concern,

Regarding this bill:

TWC rule <https://twc.texas.gov/files/agency/pr-ch-815-status-test-approved-12-4-18-twc.pdf>

We would like you to know how important this is to the future of work. By 2025 Millennials will make up 75% of the workforce and they have made it clear they want to work in a more flexible way than in the past. They want to find jobs via their mobile app, move more freely among multiple employers and be able to work when they want, where they want and how they want.

Our technology platform connects employers with flexible/gig workers and we see a growing need for this new form of employment with both the companies and the talent who desire to work this way.

This bill helps support this new employment model that benefits all parties. Texas can differentiate itself by understanding this fundamental shift in the labor market and supporting it rather than trying to inhibit it with outdated rules from 30 years ago that were meant for a different economy that is quickly disappearing.

Certain other states misunderstand this, and in their effort to be worker friendly are passing laws that hurt workers as companies have to then avoid hiring flexible workers in that state because of the legal risk and worker confusion.

We operate in all 50 states and I can tell you we think about this when we are working with companies and where they have their primary workforces.

Don't be behind the times pass this bill and help lead the future of work and promote Texas as a gig economy friendly state that is looking out for those workers that want to work differently!

Best Regards,

Glenn Laumeister
CEO
AllWork
276 5th Avenue
New York, NY 10001
347-486-6360


Comment 61
Proposed Rules
Chapter 815
Marketplace

From: Mike Inman [REDACTED]
Sent: Monday, January 21, 2019 11:57 AM
To: TWCPolicyComments
Subject: Re: Support for Amendment to Commission Rule 815.134
Attachments: Scan Jan 21, 2019 at 11.48.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Please find attached my letter of support for the proposed amendment to Commission Rule 815.134 published in the Texas Register on December 21, 2018.

Sincerely,

Michael Inman



Auto Rescue

359 Lake Park Road
Suite 124
Lewisville, TX 75057

January 18, 2019

Via e-mail to TWCPolicyComments@twc.state.tx.us

TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing
101 East 15th Street, Room 459T
Austin, TX 78778

Re: Support for Amendment to Commission Rule 815.134

On behalf of the Auto Rescue family of companies, I am writing to express our support for the proposed amendment to Commission Rule 815.134 published in the Texas Register on December 21, 2018.

Auto Rescue is a multi-state group of companies headquartered in Lewisville, Texas which provides services in the roadside assistance industry. Each year, more than 300,000, motorists in the State of Texas receive help (in the form of jump starts, tire changes, fuel deliveries, and lock out assistance) through the network and platform that Auto Rescue operates. Nationwide, there are more than 1,000,000 motorists who receive services each year. While there are some small businesses who provide services using Auto Rescue's platform, most of the service providers are independent contractors who work with Auto Rescue on an "on demand" basis.

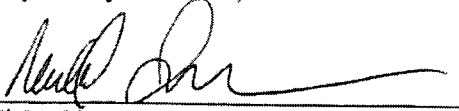
The service professionals who use the Auto Rescue's platform are attracted by the income opportunities the platform provides, but just as important is the fact that the independent contractor relationship gives them increased flexibility and independence that they are unable to find elsewhere. This freedom is a tremendous advantage for a large number of workers in Texas who need or prefer the flexibility the platform offers. In talking to many of our service providers, it has become clear to us that they place a high value on maintaining their independence. They want to be able to work as much or as little as they want or need. This is something that we offer: they can work two hours or twenty hours. They can take a week or a month off. They have complete control over their schedules and their careers.

Auto Rescue and the on-demand sector face risk, however, because the current rules governing the classification of contractors are outdated and do not fit the on-demand contractor model. The laws were developed decades ago and simply do not provide clear guidance for how workers in the new on-demand economy should be classified. This has created some confusion for individuals who have the opportunity to earn in the on-demand sector and puts companies like ours at risk of lawsuits and other challenges, which threatens both the platforms and the benefits they offer to consumers and contractors.

The proposed rule provides needed clarification for worker classification in the on-demand sector by providing clear, objective criteria focusing on the types of factors that are relevant for the sector. By providing this clear, objective framework for everyone to follow, the amendment will bring needed clarity to the law, and enable the on-demand economy to continue to grow, innovate, and bring new income opportunities to the state.

Thank you for taking Auto Rescue's views into account. Please contact me if you have any questions or need any further information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Inman', written over a horizontal line.

Michael Inman
Owner

Comment 62
Proposed Rules
Chapter 815
Marketplace

From: Kathryn Youker [REDACTED]
Sent: Monday, January 21, 2019 2:10 PM
To: TWCPolicyComments
Cc: Rebecca Eisenbrey
Subject: Comments to Proposed Rule: Employment Status
Attachments: TRLA EJC Comments-Employment status test.pdf

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Please find attached the comments of Texas RioGrande Legal Aid, Inc. and the Equal Justice Center in regards to the above-reference proposed rule. Please do not hesitate to contact us if you have any questions.

Sincerely,

Kathryn Youker
Labor & Employment Group Coordinator
Texas RioGrande Legal Aid
1206 E. Van Buren
Brownsville, TX 78520
Tel: 956-982-5540
Fax: 956-541-1410

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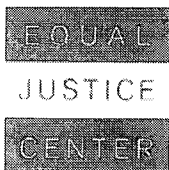


LAW OFFICES OF
TEXAS RIOGRANDE LEGAL AID, INC.
1206 E. Van Buren
Brownsville, Texas 78520

Telephone (956) 982-5540

Toll Free: (877) 341-7248

FAX (956) 541-1410



EQUAL JUSTICE CENTER
510 South Congress Avenue, Suite 206
Austin, Texas 78704
tel: 512.474.0007 fax 512.474.2008
www.equaljusticecenter.org
Justice at work

January 21, 2019

Submitted via email, TWCPolicyComments@twc.state.tx.us

TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing
101 East 15th Street, Room 459T
Austin, Texas 78778

RE: Comments on Proposed Rule, Employment Status Analysis: Employee or Independent Contractor

Dear Commissioners:

Texas RioGrande Legal Aid (“TRLA”) and the Equal Justice Center (“EJC”) write to oppose the Texas Workforce Commission’s (“TWC’s”) new proposed rule relating to unemployment insurance that would add a specific exemption from the definition of “employment” for workers whose labor is procured through use of a “marketplace platform.”¹ In short, this provision provides a broad exception from the definition of employment for any entity that uses a specific medium—an online network—to connect providers and recipients of services and labor. Replacing the existing multi-factor common law test with a bright-line rule, the proposal would leave many workers who are in fact employees without the safety net of unemployment benefits and incentivize employers to abandon store-front operations in Texas and shift their operations online in order to avoid tax liability. Because the proposed rule is arbitrary, capricious, and contrary to law, we urge the TWC to reject it and retain the current employment test for all employers.

TRLA, EJC, and their low-income clients have a strong, long-time interest in protecting workers’ entitlement to unemployment insurance. For nearly 50 years, TRLA has provided free legal services to low-income families from more than a dozen offices, primarily in south and west

¹ 43 TEX. REG. 8277 (Dec. 21, 2018).

Texas, in more than three dozen practice areas of law. TRLA also provides free legal services to indigent victims of sexual assault in north and northwest Texas, and it furnishes employment-related legal services to agricultural workers who labor in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and Texas.

The EJC is a non-profit law firm and employment justice organization based in Texas which empowers low-income families, workers and communities to achieve fair treatment in the workplace, in the justice system, and in our shared society. Since 2001, the EJC has provided legal representation that enables working men and women to recover unpaid wages and combat other basic injustices they encounter in their work.

TRLA has extensive experience in representing low-wage workers in unemployment claims appeals across a wide range of industries. In 2018, TRLA received over 160 intakes in Texas that involved an unemployment benefits matter. In the vast majority of these cases, TRLA provided some level of service, from brief counsel and advice to representation in judicial review. All of TRLA's clients live in poverty; to them, the important remedial purpose of the Texas Unemployment Compensation Act—to relieve the economic plight of hard workers who are available for work but, through no fault of their own, are unemployed—is particularly meaningful.

It has been the experience of TRLA and the EJC that independent contractor misclassification of low-wage workers is rampant across virtually all industries, including construction, delivery, trucking, building maintenance, janitorial, agricultural, home health care, and childcare industries. Both organizations regularly challenge, successfully, the misclassification of employees as independent contractors in administrative proceedings, state and federal court lawsuits, and other regulatory schemes.

For purposes of unemployment tax liability, the statutory definition of employment is broad and encompasses any service performed for wages or under a contract, unless the performance of the service is “free from control or direction under the contract and in fact.” Texas Labor Code § 201.041. The Texas Supreme Court has interpreted this provision to create a presumption of employment whenever a worker is paid for their services. *Harris Cty. Appraisal Dist. v. Texas Workforce Comm’n*, 519 S.W.3d 113, 118 (Tex. 2017). The presumption is only rebutted if the alleged employer carries its burden of showing that the individual’s service is “free from control or direction under the contract and in fact.” *See id.* (citing Tex. Lab. Code § 201.041).

The Commission adopted a 20-factor test derived from the common law as guidance for determining employment status, the crux of which is whether the putative employer has the right to control the worker both in terms of outcome and direction. *See* Texas Administrative Code §§ 815.134 and 821.5. Control does not have to “actually be exercised; rather, if the service recipient has the *right* to control, employment may be shown.” *Id.* Not all of the 20 factors will

necessarily apply in every case. *Id.* The weight assigned to a specific factor will vary depending on the facts of each case. *Id.*

Both section 201.041 of the Labor Code and the TWC's current regulations mandate that where an entity controls a worker's performance, or has the right to control that worker's performance, an employment relationship exists.

The proposed rule changes seek to create an exemption from the definition of employment mandated by statutes and binding precedent for marketplace platforms when such companies satisfy nine listed conditions. The conditions, some of which overlap, closely match fewer than half of the 20 control factors in the TWC's current employment status test.²

TRLA and the EJC are concerned that the proposed new rule creates confusion by supplanting the established control factors with an arbitrary and unfounded sub-set of those factors that is insufficient to determine control or establish employment status as defined by section 201.041 of the Labor Code and clarified by the Texas Supreme Court. An individual who uses a digital network to connect to customers may satisfy all nine of the conditions but still lack the power to set her own duties or wages, be held to rigorous performance standards, be required to report back to the marketplace platform, and otherwise be subject to the direction or control of the marketplace platform such that she is in fact an employee. The new rule runs afoul of existing Texas law on "employment" because it removes the presumption of employment, displaces the centrality of the right to control, and shifts the burden of establishing whether the relationship exists from the employer to the employee. *Harris Cty. Appraisal Dist.*, 519 S.W.3d at 118. The commentary fails to explain how the new rule can be reconciled with Texas law or why the other common law factors should be disregarded for a particular subset of the labor force.

The fact that a company uses an online network to connect customers to workers does not justify a special rule. There is nothing unique about the medium of an online application. It is simply the latest tool a company can use to connect customers to a company's services or to post an available job. For example, taxi cab companies historically used a dispatcher who received customer's calls and connected the customers to individual drivers. Nothing in the proposed rulemaking discusses the need for such a sweeping exception simply because a company chooses to connect riders to drivers via an online network rather than via a live dispatcher or any other medium.

² Compare proposed section 815.134(b)(2)(A) with existing section 821.5 Form C-8 at 12 (payment by the hour); 815.134(b)(2)(b) with 821.5 Form C-8 at 7 (set hours of work); 815.134(b)(2)(C) with 821.5 Form C-8 at 17 (working for more than one firm at a time); 815.134(b)(2)(D) with 821.5 Form C-8 at 18 (making service available to the public); 815.134(b)(2)(E) with 821.5 Form C-8 at 7, 9 (set hours of work; location where services performed); 815.134(b)(2)(F) with 821.5 Form C-8 at 13 (payment of business and travel expenses); 815.134(b)(2)(G) with 821.5 Form C-8 at 14 (furnishing tools and equipment); 815.134(b)(2)(H) with 821.5 Form C-8 at 1 (instructions); 815.134(b)(2)(I) with 821.5 Form C-8 at 2 (training).

Indeed, the new rule would create a strong incentive for companies to move their operations to an online network in order to avoid tax liability, as becoming a marketplace platform is relatively easy to accomplish. That is because the definitions of “digital network,” “marketplace platform,” and “marketplace contractor” in the proposed rule are overly broad. The definitions do not specify the extent or duration of the relationship between the marketplace platform and the recipient or the provider of the labor or service, or the type of payment arrangement received by the marketplace platform. Instead, the definitions as written would allow a company to convert to a marketplace platform by simply allowing customers and workers to request and post services online.

For example, many janitorial workers are employed by large cleaning companies; they provide their services in clients’ office or apartment buildings and rarely have a need to visit the administrative offices of the companies for which they work. By switching to an online platform to connect janitors with clients, a cleaning company could avoid paying unemployment taxes without making any substantive changes to its relationship with its workers.

Two cases decided by the Third and Sixth Courts of Appeals demonstrate this point. In those cases, which involved “virtually identical” facts, nurses were dispatched by healthcare services companies to health care institutions. *Tochril, Inc. v. Texas Workforce Comm’n*, No. 06-15-00078-CV, 2016 WL 3382747, at *5 (Tex. App. – Texarkana, June 17, 2016); see also *Critical Health Connection, Inc. v. Texas Workforce Comm’n*, 338 S.W.3d 758, 767–68 (Tex. App. -- Austin 2011). The evidence showed that the relationship between the healthcare services companies, the nurses, and the client institutions was very similar to that between marketplace platforms, marketplace contractors, and third-party individuals as defined by the proposed rule.

In both cases, the healthcare services companies argued that the nurses were independent contractors, not employees, and thus were not entitled to unemployment insurance. In *Critical Health Connection*, the company stressed that the presence of many of the factors in the proposed rule—that nurses could accept or reject any given shift and therefore could control their hours, the location of their work, and “whether they realize a profit or a loss in their ‘business,’” 383 S.W.3d at 767—demonstrated that the nurses were in fact independent contractors. And in both cases, after considering all of the 20 control-test factors, the courts of appeals determined that on balance, the healthcare services companies exercised sufficient control over the nurses to create an employment relationship within the meaning of the Texas Labor Code. *Id.* at 767–68; *Tochril*, No. 06-15-00078-CV, 2016 Tex. App. LEXIS 64444, at *14–15. Because the factors listed in the proposed rule would lead to the contrary outcome, the new test is plainly incompatible with state law.³

³ In fact, the proposed rule apparently does not exempt employees of staffing companies, or “temporary work firms,” defined in Texas Labor Code § 201.011(21) as “a person who employs individuals for the purpose of assigning those individuals to work for the clients of the temporary help firm to support or supplement a client’s

The proposed rule is also contrary to the purpose of the unemployment insurance program and to the economic reality of the contemporary labor market. When first enacted in 1936, the Texas Unemployment Compensation Act recognized that “it is to the public good that the unemployment benefit funds be set aside ‘to be used for the benefit of persons unemployed through no fault of their own.’” *Tex. Emp’t Com. v. Huey*, 161 Tex. 500, 501–02 (Tex. 1961). Marketplace platforms control a user’s access to customers, and thus to work; if a platform deactivates a user for receiving an average of 4.5 out of five stars in customer reviews⁴ or shuts down entirely, the user loses the ability to find and perform work. Such a worker is exactly who the unemployment insurance program was designed to protect, but she would be left behind under the current rules.

The TWC has rulemaking authority under § 301.00015(a)(6) of the Texas Labor Code to define “employment.” However, this authority only goes so far: an agency’s interpretation of a statute it is charged by the Legislature with enforcing must be “reasonable” and must not “contradict the plain language of the statute.” *First Am. Title Ins. Co. v. Combs*, 258 S.W.3d 627, 631 (Tex. 2008). The rule proposed by the TWC is plainly unreasonable, as it establishes different definitions of employment for network-based and brick-and-mortar businesses without justification or explanation. And it is contrary to the plain language of the statute, because the proposed nine-factor test is wholly insufficient to determine whether a purported employee performs his labor “free from control or direction under the contract and in fact.” § 201.041. As such, the TWC’s imposition of the proposed rule with respect to the exclusion of companies defined as “marketplace platforms” of their unemployment tax obligations would be arbitrary, capricious, and contrary to law.

Furthermore, see comments submitted by the National Employment Law Project, which are hereby incorporated by reference as if fully set forth herein. Please also note that, except as expressly set forth herein, we have not analyzed, and we take no position with respect to, whether this proposed rulemaking complies with applicable procedural and other legal requirements.

Thank you for the opportunity to comment on the proposed rule.

work force during employee absences, temporary skill shortages, seasonal work loads, special assignments and projects, and other similar work situations.”

⁴ See, e.g., *Star ratings: What to know as a driver-partner*, Uber, <https://www.uber.com/drive/resources/how-ratings-work/> (last visited Jan. 15, 2019) (“If your average rating continues to fall below the minimum after multiple notifications, your account may be deactivated pursuant to the Community Guidelines.”).

Sincerely,

TEXAS RIOGRANDE LEGAL AID, INC.

By: /s/ Kathryn J. Youker

Kathryn J. Youker

Labor & Employment Group Coordinator

EQUAL JUSTICE CENTER

By: /s/ Rebecca C. Eisenbrey

Rebecca C. Eisenbrey

Staff Attorney

Comment 63
Proposed Rules
Chapter 815
Marketplace

From: Susan Motley [REDACTED]
Sent: Monday, January 21, 2019 3:41 PM
To: TWCPolicyComments
Subject: Opposition to TWC Rule 815.134 by the Texas Employment Lawyers Association
Attachments: NELP's twc comments 1.17.19.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I write to you both on my own behalf as a Texas lawyer representing workers and as a Board member speaking on behalf of the Texas Employment Lawyers Association, a non-profit association of lawyers from across Texas who regularly represent workers in employment law matters. We submit this comment in OPPOSITION to proposed TWC Rule 815.134.

The question of who is, and who is not, an employee is one of the most litigated issues in employment law, and its answer is one with far-reaching ramifications, both within and outside the TWC unemployment context.

The current 20-part test used in TWC Rule 821.5 is consistent with well-established law and allows for predictability in the marketplace and protection to workers as justified by the facts and/or contracts in most workplace scenarios. Technological changes in how work is assigned simply do not justify a departure from such well-established law. The proposed change is unnecessary, and changes in technology are not a compelling or persuasive reason to stop using the current test, particularly through rulemaking rather than through a deliberative process in the Legislature.

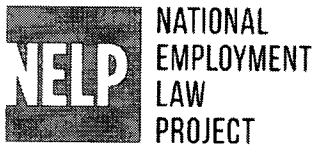
Moreover, the proposed change will cause much more harm than good, both due to the confusion it will generate and by the significant losses to the State and to workers that can result when workers are misclassified – a problem that the U.S. Department of Labor Wage and Hour Division describes as one that “generates substantial losses to the federal government and state governments in the form of lower tax revenues, as well as to state unemployment insurance and workers’ compensation funds.” (Information available on US DOL’s website at <https://www.dol.gov/whd/workers/misclassification/>) (emphasis added).

The Texas Employment Lawyers Association joins in the well-reasoned, researched, and thoughtful opposition submitted by the National Employment Law Project (attached hereto) and urges that the new proposed rule be rejected and that the TWC keep in place the current 20-point test that is consistent with well-established law, including in contexts implicated by the proposed new rule.

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Rule comment

National Employment Law Project

Comments on Texas Workforce Commission proposed rule § 815.134

Submitted via e mail to TWCPolicyComments@twc.state.tx.us.

January 18, 2019

TWC Policy Comments, Workforce 38 Program Policy

Attn: Workforce Editing

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The National Employment Law Project (NELP) is a national legal, research and policy organization. For decades, we have focused on the ways in which employers structure work arrangements outside the traditional employment relationship – for example, through subcontracting, temporary and staffing agencies, franchisee models, or independent contractor arrangements. These work structures too often drive labor standards erosion, rising income and wealth inequality, enduring and evolving structural racism and occupational segregation, and the shifting of power away from workers and toward corporations. While contracting out non-core jobs like payroll administration or pest control can represent a legitimate and efficient business decision, depending on the business, contracting out can also shift economic risk away from employers and onto workers, without justification. In many cases, subcontracting arrangements are simply a tactic to avoid compliance with labor laws. Most recently, NELP has researched, written and developed policy on the on-demand economy, as one facet of this subcontracting trend. We have talked directly with workers and worker organizations, studied the academic research and worker surveys, developed policy, and written and spoken publically on this topic.

NELP submits these comments in opposition to the proposed Texas Workforce Commission rule §815.134. The Texas Workforce Commission has no legally justified basis for adopting this rule and has offered no justification for the necessity to deviate from its long-standing 20-part test to determine employee status under the law for companies it is calling “marketplace platforms.” The proposed rule overlooks the real relationships between many on-demand companies and their workers, and codifies potential misclassification of these – and many other – workers as independent contractors. As outlined below, based on NELP research, the on-demand companies are engaged in a multi-million dollar effort to carve themselves out of state workers’ rights and safety net protections. The proposed rule robs the state unemployment insurance fund of premiums, and privileges well-capitalized tech companies from out of state at the expense of locally-based brick and mortar companies.

The Texas Workforce Commission (TWC or Commission) has offered no legally justified basis to create a new test for employee status for marketplace platforms.

The Commission relies on its rulemaking authority under § 301.0015(a)(6) of the Texas Labor Code to enact this exemption. While the Commission has rule-making powers, its rule-making must be within the parameters of Texas law. This proposed exemption is nowhere expressly authorized in state law and the Commission has not even attempted to explain why so-called marketplace platforms are sufficiently different from other companies that a separate test is necessary or desirable. Nor does the Commission even attempt to explain why the current test does not work to determine “employment” for marketplace platform companies.

Texas has existing definitions of covered employees and employers under its Unemployment Insurance statute: “employment” means a service, including service in interstate commerce, performed by an individual for wages or under an express or implied contract of hire, unless it is shown to the satisfaction of the Commission that the individual’s performance of the service has been and will continue to be free from control or direction under the contract and in fact. Tex. Labor Code § 201.041.

The Commission has developed a multi-factor common-law test that it uses to apply that statutory definition. See 40 Tex. Admin. Code § 815.134 (2010). The proposed rule deletes or dilutes half of the elements of this test, unduly narrowing it, without explanation. For example, the proposed rule says

nothing about the current Code's factor three, that considers whether services of an employee are integrated into a firm's business. This factor is very important because it defines those workers who could be treated as direct employees by a company whose sole business purpose is to provide drywall installers, for instance. It deletes Code factors four and five, which state that services rendered personally indicate employee status. It deletes Code factor six, which considers continuous employment. It ignores factor eleven, which indicates that where workers are required to make reports to the business – where work is supervised – an employment relationship is indicated. It deletes factors 15 and 16, which ask whether the individual worker has invested capital in a separate business, and that worker's ability to realize profit and loss. Finally, it deletes factors 19 and 20, governing at-will employment. All of these factors derive from the common-law test of employment, and are critical indicators of the existence (or non-existence) of an employment relationship.

The proposed rule thus deviates substantially from Texas' statutory definition and long-standing analysis of "control," and this unexplained deviation is critical to analysis of the relationship between so-called "marketplace platforms" and their workers, who are called "independent contractors" by most on-line on-demand labor platforms. In two recent cases, *Critical Health Connection v. TWC*, 338 S.W. 3d 758 (2011), and *Tochril v. TWC*, 2016 WL 3382747 (Tex. App. Texarkana, 2016), Texas courts found workers in similar work structures as platform workers to be "employees." In each, health care workers, who were dispatched to work in individual homes, were found under the 20-factor test to be covered employees under state law. Similar to platform workers, in *Tochril*, the workers were told they had discretion to work "when they want, if they want, and where they want." However, the courts looked beyond these representations to the actual relationship between the workers and the businesses for whom they worked. For example, the providers' work was fully integrated into the businesses that engaged them. The workers' wages were set by the companies, such that they had no opportunity for profit or loss. The workers were required to submit reports to the business. Like platform workers, the providers could work for other companies.

The TWC's proposed rules delete more than half of the factors that the Texas courts found important in these two key cases, without explanation. It is likely that under the proposed rules, were these businesses to take their companies online and restyle themselves as "marketplace platforms," these workers would be considered independent contractors.

The TWC wrongly relies on specific statutory exclusions from UI that are specifically authorized by the legislature to justify this proposed rule that is NOT the result of legislative action. As the TWC acknowledges, Texas has particular statutes that create special rules for certain businesses. For example, professional employer organizations, (Tex. Lab. Code Chap 91), temporary employment services (Tex. Lab. Code chap 93), and transportation network companies (Tex. Occ. Code § 2402.114), domestic service workers, Tex. Lab. Code 201.027; certain farmworkers, Tex. Lab. Code § 201.028, 047; certain delivery workers and salespeople, Tex. Lab. Code § 201.042; services on American vessels, Tex. Labor Code § 201.045; services performed for Native American tribes, Tex. Lab. § Code 201.048; product demonstrators, Tex. Lab. Code § 201.070; insurance agents, Tex. Lab. Code § 01.071; real estate brokers, Tex. Lab. Code § 201.072, and newspaper delivery services, Tex. Lab. Code § 201.073. But it is the *legislature* that has established particular conditions under which workers in certain sectors are excluded from coverage under unemployment insurance, not the Commission. Since the Texas legislature has not seen fit to exclude workers on "marketplace platforms" from coverage under the law or to subject them to specialized tests, the Commission is acting without legal authority.

The Commission states in the preamble to the proposed rule that “not all 20 common law factors may apply” to a fact pattern, as a partial justification for its shortened list of factors. But that statement copied from the Texas Payday rules is clearly meant to cover situations where a particular factor is not applicable to a fact pattern of a claimant’s job— not situations in which multiple factors are highly relevant, but the Commission chooses to ignore it. In fact, the truncated list of factors under consideration seems geared to dictate a single outcome – that the businesses are not employers. The effective difference between the TWC’s rule and a wholesale marketplace platform-based exclusion is that exclusions are only authorized by the Texas Legislature.

Subject to litigation and unfavorable decisions around the country, the online on-demand labor platform industry is seeking to rewrite the laws in its favor.

By proposing this special exemption, the Commission has fallen prey to an aggressive campaign by online labor platforms to gain exemptions from the law. Numerous on-demand companies, such as Uber, Lyft, Homejoy, Postmates, TryCaviar, and Amazon PrimeNow, are now or have been the subjects of litigation challenging their practice of treating workers as independent contractors.¹ At least 7 class action lawsuits are pending against Handy, which calls its housekeepers and domestic workers “independent contractors.” In Texas, drivers have sued Uber for misclassifying them as independent contractors and violating wage laws.²

Due to forced arbitration clauses that prevent workers from litigating in public courts, few cases have reached trial; however, when courts and state agencies are able to look at the underlying facts, they have repeatedly found that platform workers are employees.³ The companies would thus prefer that courts and agencies be restricted to a short list of factors that entirely favor the companies. At least one company’s lobbyist has been clear in public statements that they are attempting to gain special treatment from state legislatures to derail litigation against them.⁴

Online labor platforms are not the yellow pages; “marketplace platform” workers are subject to strict controls imposed by the companies.

As has apparently happened in Texas, certain on-demand companies have advanced, in state legislatures across the country, an argument that they are marketplaces, akin to the telephone yellow pages. A true marketplace is a place where small businesses can freely offer their services to the public: they can list their availability for jobs that they design; directly reach customers with whom they are able to develop an ongoing business relationship; set their own prices and fees, under standards they are free to negotiate directly with their customers. In short, in a true marketplace, small businesses are capable of realizing a profit in a free market.

The majority of these online companies, however, are not true marketplaces. Were the TWC to examine the relationship between the companies and their workers – something it has not done – it would find that its current 20-factor test is both entirely relevant and entirely sufficient to gauge whether online on-demand companies are employers under state law. Companies like Uber and Handy – the two companies most frequently publically identified with soliciting special treatment by state legislatures⁵ – are not mere marketplaces: They unilaterally set pay rates, substantially control when, where, and how people work, and impose discipline and firing on those that do not meet rigid standards that they also set unilaterally—just like any other employers.

Handy, an online platform providing domestic and home care workers that is frequently publically quoted as lobbying for carve-outs like the instant proposed rule, sets payment rates unilaterally and charges workers penalty fees (that must be sometimes paid off through working future jobs), such that workers are unable to realize a profit or loss from their work. These fees include fees for background checks, fees if they need to cancel a job, and fees if they leave the platform, according to reports.⁶ The company exerts substantial control over its workers: One lawsuit alleges that Handy requires its cleaners to wear its insignia on their clothing, tells its cleaners specifically how to interact with the customer at all times, tells cleaners when and how they can use the bathroom in a home they're cleaning, and forbids them from listening to music, using helpers, or answering a phone call while on duty.⁷ According to workers, termination is abrupt, arbitrary, and unfair, with no recourse or clear process. Once terminated from the platform, workers no longer have access to their information on pay, hours, etc. Like other platforms, Handy prohibits its workers from developing a client base offline – one of the hallmarks of a true independent business.

Uber similarly sets workers' pay, and regularly makes unilateral changes to driver's pay and work conditions.⁸ Using its technology, Uber closely supervises drivers, tracking their every movement, including the speed at which the car is driven and the route taken for each ride.⁹

These companies, and other online platforms, have very little in common with the yellow pages, where an independent businessperson can set its own rates, build its own clientele, negotiate standards with its customers and work free from surveillance. The companies have more in common with the workers who were the subject of the Texas Supreme Court and Court of Appeals decisions noted above. The structure of their work should be examined under existing law.

TWC's rule codifies misclassification of workers as independent contractors, in conflict with its efforts to end the illegal practice.

The tax break that the TWC is offering "marketplace platforms" is at odds with evidence that misclassification is widespread in Texas, as it is nationally, and with the state's own efforts to curb misclassification.

The U.S. Department of Labor has found that as many as 30 percent of firms misclassify their employees as independent contractors, and studies commissioned by state governments often cite estimates that are even higher.¹⁰ These studies suggest that millions of workers nationally may be misclassified, and the studies likely underestimate the true scope of misclassification. Many of the studies are based on unemployment insurance tax audits of employers registered with the state's UI program itself.¹¹

Misclassification occurs across many industries, from construction, technology, and homecare, to warehousing and materials moving, delivery, and janitorial.¹² Specific to the construction industry in Texas, a 2009 study found that 38% of the construction workers in the Austin area were misclassified.¹³ For a 2012 study, researchers from the Workers Defense Project surveyed 1,194 construction workers, conducted in-depth interviews with workers and employers, and analyzed government data, finding that at least 41% of Texas construction workers are misclassified as independent contractors or paid off-the-books in cash or by check.¹⁴

In 2015, the Commission, recognizing that misclassification is a critical issue in Texas, entered into a Memorandum of Understanding with the US Department of Labor, with the specific and mutual goals of providing clear, accurate, and easy-to-access outreach to employers, employees, and other stakeholders, and of sharing resources and enhancing enforcement by conducting joint investigations and sharing information consistent with applicable law.¹⁵

Giving a tax break to online platform companies hurts small businesses in Texas.

The Commission's finding that there is no anticipated adverse economic impact on small businesses is incorrect. Many of the online companies known to be lobbying for exemptions from compliance with labor law are not small startups in need of special help; in fact, they are valued in the tens of billions of dollars. Uber's latest valuation is 68 billion.¹⁶ Others, including Lyft and Grubhub, are also valued in the tens of billions. Ahead of its potential initial public offering, Lyft's underwriters proposed a valuation range of \$18 billion to \$30 billion, with a target of \$25 billion. GrubHub Inc., the \$11 billion food-delivery company, trades at 11.2 times its 2018 revenue estimates.¹⁷ In this context, the TWC's rule is deeply unfair to brick and mortar businesses in Texas that pay their taxes. As the attached Appendix shows, the rule would potentially affect a wide variety of brick and mortar companies engaging and dispatching workers, from nurses to cleaners and caregivers, drivers, janitors, tech support workers, plumbers and electricians. In fact, some 10% of Texas jobs could be affected according to our research.

In addition, the costs to state government could be enormous, contrary to the TWC assertion that there would be "no additional estimated costs to the state and to local governments." Brick and mortar companies in industries where workers are regularly dispatched will be forced to move to an online business model. In Colorado, the state Legislative Council estimated that a similar carve-out bill would result in 5% of employees being reclassified as independent contractors—at a cost to the state of \$22.6 million a year in unemployment insurance premiums alone.¹⁸ Expressing the concerns of small business about the marketplace platform carve-outs, the Cincinnati owner of a maid service told CNN Money that the bills will lead existing employers to convert to a lower-cost independent contractor model in order to compete. "It won't just be Handy, it'll be all of these virtual companies that are out there now," he said.¹⁹

While it would be difficult to quantify those losses without further information, the 2009 study referred to above found that 38% of the construction workers in the Austin area were misclassified, and that this misclassification resulted in an estimated loss of at least \$8,618,869 in federal taxes and state unemployment taxes.²⁰ Adopting this rule can only cost the state millions more in uncollected payroll taxes.

Conclusion

The proposed rule from the Commission is ill-advised and not authorized by law. Were the Commission to consider the relationships of on-demand platform workers to the companies they serve, it would likely find that many are employees and covered under the law. The Commission has failed to consider the deleterious effects on workers, small business, and the state itself in proposing this rule.

¹ See “On-demand Workers Should be Covered by Workers’ Compensation,” National Employment Law Project, (Jun. 2016), <http://www.nelp.org/publication/on-demand-workers-should-be-covered-by-workers-compensation/>.

² Marc Ramirez, “Texas Uber Drivers Sue Company Seeking Full Employee Status, Back Pay,” DALLAS NEWS, (Jun. 30, 2017), <https://www.dallasnews.com/news/transportation/2017/06/30/texas-uber-drivers-sue-company-seek-full-employee-status-back-pay>.

³ See: Advisory Opinion on the Employment Status of Uber Drivers (Oregon Bureau of Labor and Industry, Oct. 14, 2015), <http://uberlawsuit.com/Oregon.pdf>; Berwick v. Uber Technologies, Inc., No. 11-46739, 2015 WL 4153765, (CA Labor Commissioner, Department of Industrial Relations, Division of Labor Standards Enforcement, Jun. 4, 2015); Uber, No. 4371509 (California Unemployment Appeals Board, Jun. 1, 2015); No. 016-23858, (NY Unemployment Insurance Appeals Board, Jun. 9, 2017)(Uber); No. 015022526 (NY Unemployment Insurance Appeals Board, Jun 9, 2017)(Taskrabbit); No. 015-22529 (NY Unemployment Insurance Appeals Board, Jun 9, 2017)(Postmates); In the Matter of the Petition for a Finding of the Failure to Insure Workers’ Compensation Liability, and Assessment of a Civil Penalty Against, Uber Technologies, Inc and Rasier LLC, 2015 WL 4699265 (Alaska, Department of Labor and Workforce Development, Jul. 31, 2015); Lowman v. Unemployment Compensation Board, No. 686 C.D. 2016 (Pennsylvania Commonwealth Court, January 24, 2018).

⁴ “If starting with the harder states failed, we’re taking a shot at something’s that a little faster,” said venture capitalist and political strategist Bradley Tusk, whose firm Tusk Ventures ran Uber’s state legislative campaign and now represents Handy. “What is ultimately a better business decision? To try to change the law in a way that you think works for your platform, or to make sure your platform fits into the existing law?” Lydia DePillis, “For Gig Economy Workers in These States, Rights are at Risk,” CNNMONEY, Mar 14, 2018, <http://money.cnn.com/2018/03/14/news/economy/handy-gig-economy-workers/index.html>.

⁵ Lydia DePillis, “For Gig Economy Workers in These States, Rights are at Risk,” CNNMONEY, Mar .14, 2018, <http://money.cnn.com/2018/03/14/news/economy/handy-gig-economy-workers/index.html>.

⁶ Neils van Doorn, “Late for a job in the gig economy? Handy will dock your pay,” QUARTZ AT WORK, Oct. 3, 2018, <https://qz.com/work/1411833/handy-charges-fees-to-its-workers-for-being-late-or-canceling-jobs/>.

⁷ Kevin Montgomery, “Handy Sued for Being a Hellscape of Labor Code Violations,” VALLEYWAG, Nov. 12, 2014, <http://valleywag.gawker.com/handy-sued-for-being-a-hellscape-of-labor-code-violatio-1657889316>; Maya Kosoff, “Two Workers Are Suing a Cleaning Startup Called Handy over Alleged Labor Violations,” BUSINESS INSIDER, Nov. 12, 2014, <https://www.businessinsider.com/handy-cleaning-lawsuit-2014-11>.

⁸ Alex Rosenblat, Uber May Have Imposed 12-Hour Driving Limits, but It’s Still Pushing Drivers in Other Troubling Ways, SLATE, Mar. 2, 2018, <https://slate.com/technology/2018/03/uber-may-have-imposed-12-hour-driving-limits-but-its-still-pushing-drivers-in-other-troubling-ways.html>.

⁹ Alex Rosenblat, *When Your Boss is an Algorithm*, NEW YORK TIMES, Oct. 12, 2018, <https://www.nytimes.com/2018/10/12/opinion/sunday/uber-driver-life.html?smid=tw-nytopinion&smtyp=cur>.

¹⁰ Lalith de Silva et al., Independent Contractors: Prevalence and Implications for Unemployment Insurance Programs,i-iv, prepared for U.S.Planmatics, Inc. (Feb. 2000), <http://wdr.doleta.gov/owsdrr/00-5/00-5.pdf>.;National Employment Law Project (NELP), Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries, December 2017, <http://www.nelp.org/publication/independent-contractor-misclassification-imposes-huge-costs-on-workers-and-federal-and-state-treasuries-update-2017/>.

¹¹ NELP, *id*.

¹² Rowe, New Jersey’s Supply Chain Pain: Warehouse and Logistics Work Under Wal-Mart and Other Big Box Retailers (2012); Jason Sturna, et al., Unsafe and Unfair: Labor Conditions in the Warehouse Industry, Policy Matters: A Quarterly Publication of the University of California, Riverside (2012); David Weil, Market Structure and Compliance: Why Janitorial Franchising Leads to Labor Standards Problems (Boston Univ. School of Mgmt., Working Paper 2011); Steven Greenhouse, Among Janitors, Labor Violations Go with the Job, NY Times, July 13,

2005, at A19. Francoise Carre, (In)dependent Contractor Misclassification, Economic Policy Institute, June 8, 2015, at 11, <https://www.epi.org/publication/independent-contractor-misclassification/>.

¹³ Building Austin, Building Injustice: Working Conditions in Austin's Construction Industry, Workers Defense Project in collaboration with the Division of Diversity and Community Engagement at the University of Texas at Austin (June 2009), http://www.buildaustin.org/Building%20_Austn_Report.pdf.

¹⁴ Build a Better Texas: Construction Working Conditions in the Lone Star State, Workers Defense Project in collaboration with the Division of Diversity and Community Engagement at the University of Texas at Austin (January 2013), http://www.workersdefense.org/Build%20a%20Better%20Texas_FINAL.pdf.

¹⁵ Agreement between the U.S. Department of Labor, Wage and Hour Division and the State of Texas – Texas Workforce Commission, Effective: February 15, 2015, <https://www.dol.gov/whd/workers/MOU/tx.pdf>.

¹⁶ Yves Smith, "Uber is Headed for a Crash," NEW YORK INTELLIGENCER, Dec. 4, 2018, <http://nymag.com/intelligencer/2018/12/will-uber-survive-the-next-decade.html>.

¹⁷ Alex Barinka and Eric Newcomer, "Uber Valued at \$120 Billion in an IPO? Maybe," BLOOMBERG, Oct. 15, 2018, <https://www.bloomberg.com/news/articles/2018-10-16/uber-valued-at-120-billion-in-an-ipo-maybe>.

¹⁸ Legislative Council Staff, Fiscal Note, SB 18-171 (Feb 26, 2018), https://leg.colorado.gov/sites/default/files/documents/2018A/bills/fn/2018a_sb171_00.pdf.

¹⁹ DePillis, *supra*, n. 1.

²⁰ Building Austin, Building Injustice: Working Conditions in Austin's Construction Industry, Workers Defense Project in collaboration with the Division of Diversity and Community Engagement at the University of Texas at Austin (June 2009), available at http://www.buildaustin.org/Building%20_Austn_Report.pdf.

Comment 64
Proposed Rules
Chapter 815
Marketplace

From: Ana Gonzalez [REDACTED]
Sent: Monday, January 21, 2019 4:33 PM
To: TWCPolicyComments
Subject: Workers Defense Project's Comments on TWC's Proposed Rule § 815.134(b)
Attachments: WDP Comments TWC rule § 815.134.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

To whom it may concern,

Please find attached Workers Defense Project's comments on the Texas Workforce Commission's proposed rule § 815.134(b).

Feel free to contact me if you have any questions.

Respectfully,
Ana Gonzalez

Ana Gonzalez
Better Builder and Policy Director

[REDACTED]
www.workersdefense.org
Twitter @workersdefense
Phone: (915) 841-5161
Fax: (512) 391-2306

DISCLAIMER: This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply e-mail that this message has been inadvertently transmitted to you and delete this e-mail, including any attachments, from your system.

Ana Gonzalez
Policy Director
Workers Defense Project
5604 Manor Road
Austin, TX 78723
[REDACTED]

January 21, 2019

**Workers Defense Project's Comments on Texas Workforce Commission's
Proposed Rule § 815.134(b)**

Workers Defense Project ("WDP") is a nonprofit organization that provides direct services and legal assistance to thousands of low-wage Texas workers each year. From its offices in Houston, Austin, and Dallas, Workers Defense Project helps workers who have been denied payment for their work to recover back pay, assists injured workers to receive medical attention and compensation, provides pro-se trainings that orient and prepare low-wage employees and independent contractors to represent themselves in Justice Court, connects workers to social service agencies and partner attorneys, and trains workers on their legal rights in the workplace. Workers Defense Project regularly educates workers about the responsibilities of the Texas Workforce Commission and supports low-wage workers to file wage and discrimination claims, report misclassification, and apply for unemployment benefits with the agency. Most of the workers served by Workers Defense Project labor in the Texas construction industry.

It is with this experience and perspective that Workers Defense Project submits these comments in opposition to Texas Workforce Commission's proposed changes to § 815.134 of the Texas Administrative Code. As we explain in further detail below, Workers Defense Project believes that this proposed rule change will only serve to exacerbate the incidence of payroll fraud, a practice that is already pervasive in Texas and causes great harm to the workers, businesses, and fiscal health of this state. We are also concerned by the manner in which this change is being proposed - namely, that the Texas Workforce Commission is proposing to create a broad exemption to the Texas Unemployment Compensation Act through a rule change, rather than the legislative process. We view this effort as unprecedented and outside the bounds of the Texas Workforce Commission's legal authority.

I. Misclassification is bad for workers, bad for businesses, and bad for the state of Texas.

Through our work, Workers Defense Project regularly encounters employers who fraudulently classify their employees as independent contractors, pay their workers in cash or personal check without making the proper tax withholdings required by law, and provide their employees with 1099s instead of W-2s. This practice of worker misclassification, also known as payroll fraud, has a devastating impact on the state's workforce. When employers misclassify their employees as

independent contractors, they strip workers of important rights and benefits, including a worker's rights to minimum wage, overtime and a hazard-free work environment, as well as the protections of workers' compensation insurance and unemployment insurance. Payroll fraud also unfairly transfers an employer's tax burden to its employees, causing many working families to face unexpected economic hardship when misclassified workers find themselves responsible for paying both their own share and their employer's share come tax season.

By skirting the law in this fashion, unscrupulous employers who commit payroll fraud have lower operating costs than responsible businesses, creating an unlevel playing field, especially in industries, like construction, where employers acquire work through a competitive bidding process.

A 2013 study by the University of Texas estimates that over 40% of construction workers are misclassified as an independent contractor by their employer.¹ In addition to harming this state's workforce and disadvantaging responsible, law-abiding employers, payroll fraud robs Texas of vital tax income. Based on Texas Workforce Commission estimates, payroll fraud results in at least \$49.6 million dollars lost to the Texas unemployment insurance fund each year.² Estimates indicate that at least \$1.58 billion in federal taxes and state unemployment insurance will be lost this year due to the misclassification of Texas vertical construction workers, just one sector of the state's construction industry.³

II. The proposed amendments to § 815.134 relax employment classification standards, facilitating worker misclassification and exacerbating the harmful impact that this practice already has on the workers, businesses, and people of Texas.

The millions of dollars lost to the state each year due to misclassification and the burden that this practice places on the state's public safety nets is already more than Texas can afford. Within this current reality, the Texas Workforce Commission should be doubling down on its efforts to curtail payroll fraud. Instead, in its proposed amendments to § 815.134, the Texas Workforce Commission has approved a rule change that will create a less rigorous independent contractor test for certain employers considered to be "marketplace platforms". Under the existing rule § 815.134, the Texas Workforce Commission determines whether an individual is an employee or an independent contractor through the "Twenty Factor" test established in TWC's Chapter 821 Texas Payday Rules § 821.5 which analyzes twenty factors of the relationship between an individual worker and the purchaser of that worker's service to determine that worker's employment status. The proposed

¹ University of Texas, et. al. January 2013. Build a Better Texas: Construction Working Conditions in the Lone Star State, p 24.

² This number is calculated using the estimated number of employees in the Texas vertical construction industry experiencing payroll fraud multiplied by the per employee amount of taxable income that would be deducted and allocated to the state Unemployment Insurance (UI) fund.

³ 41% of survey respondents in the Texas vertical construction sector reported experiencing payroll fraud. This means there were an estimated 402,566 misclassified construction workers using the TWC's Q2 2018 data. After multiplying the number of misclassified workers by the mean construction worker wage at 40 hours a week and 51 weeks of work per year, researchers reached \$10,232,583,614 in total unreported wages for misclassified construction workers. Since employers save a minimum of 15% on payroll by misclassifying workers, researchers multiplied the total wage amount by 15%, resulting in \$1,534,887,542 in lost federal taxes. This result is then added to the \$49,636,387 in lost state unemployment insurance (UI) taxes noted in the footnote above.

Chapter 815 rule change creates an entirely new, and less rigorous test, that examines only nine factors when determining the employment status of workers who obtain work online through “marketplace platforms”. The unmistakable consequence of this proposed rule change is that some Texas workers who would be considered employees under the Twenty Factor test will now convert to independent contractors under the nine-factor test in Proposed Rule § 815.134 (b). This proposed rule change will serve to deny these workers needed wages, rights, and benefits, and only exacerbate the very real economic impact of payroll fraud in this state.

III. The Texas Workforce Commission does not have the statutory authority to exempt certain sectors of the Texas workforce from the definition of “employment”, which the the proposed Chapter 815 rule change endeavors to do.

The Texas Workforce Commission has stated that “the purpose of the proposed Chapter 815 rule change is to develop an employment status analysis for workers who use a marketplace platform’s digital network” because “marketplace platforms’ business models are becoming increasingly prevalent in our economy”. The Commission asserts that the proposed changes to Chapter 815 are necessary because further clarification is needed “through rule, of how direction and control apply in these instances...as it applies to unemployment insurance”. It is the Texas Legislature and not the Texas Workforce Commission, however, that has the authority to determine whether it is necessary or appropriate to clarify how “direct and control” apply in the unemployment insurance context to workers who use marketplace platforms, and it is through law, and not through rule, that this clarification, if deemed necessary by the legislature at all, should be provided.

Subchapter D of the Texas Unemployment of the Texas Unemployment Compensation Act (TUCA) establishes a general definition of employment as the term applies to unemployment insurance. TUCA § 201.041 creates a presumption that an individual who performs services for wages is likely an employee “unless it is shown to the satisfaction of the commission that the individual’s performance of the service has been and will continue to be free from control or direction under the contract and in fact.” In the language of § 201.041, the legislature makes its intent very clear: the Texas Workforce Commission is tasked with determining if a worker performs service “free from control or direction under the contract and in fact” on an individual, case-by-case basis. In accordance with this legislative intent, and pursuant to this grant of authority in TUCA § 201.041, the TWC adopted the Twenty Factor test in Rule § 815.134 as the agency’s official guidelines for making this case-by-case determination of employment status. The Twenty Factor test allows the Commission to assess, *on an individual basis*, depending “upon the type of business”, “the services performed”, and “the facts of the case”, whether all 20 common law factors may apply to a given worker’s relationship with the purchaser of her services and the appropriate weight to assign to a specific factor when determining employment status. 40 Tex. Admin. Code § 821.5.

In its proposed amendments to Chapter 815, however, the Texas Workforce Commission seeks to reach beyond the agency’s lawful authority to make case-by-case determinations of employment status. Through the proposed amendments to Chapter 815, the Texas Workforce Commission takes

the unprecedented step of attempting, by rule, to create a broad exception to the statutory definition of employment found in TUCA § 201.041.

As the Commission acknowledges in its Preamble to the proposed Chapter 815 rule change, the Texas legislature has, from time to time, “recognized that the unique nature of certain services requires a more tailored evaluation to determine worker status.” For example, the legislature has enacted some exemptions from Section 201’s employment definition in TUCA’s Subchapter E for domestic service workers and certain farmworkers, and created other statutory requirements that relate to unemployment insurance outside of the TUCA for certain businesses, such as for professional employer organizations (Tex. Lab. Code Chap 91) and temporary employment services companies (Tex. Lab. Code Chap 93). As noted by the Commission, the legislature has also established an alternative to the Twenty Factor test for product demonstrators and salesman in TUCA § 201.070 and delivery service workers and newspaper delivery service workers in TUCA § 201.073.

These exclusions and modifications to the the general definition of employment found in TUCA § 201.041, however, have all been executed through the legislative process. It is the state legislature, and not the Texas Workforce Commission, that has determined whether the unique nature of certain services necessitated an “employment” definition that deviated from the TUCA’s general employment definition in § 201.041. Furthermore, it has been the legislature, and not the commission, that has determined how best to tailor an exclusion or an alternative definition of “employment” in these particular circumstances. Whether “marketplace platforms” are unique enough in nature to require a more tailored evaluation of employment status is a question that should similarly be decided by the Texas Legislature through the legislative process and addressed through statutory change. The Texas Workforce Commission exceeds its authority by attempting to create an alternative employment analysis for “marketplace platforms” through the rulemaking process.

For the reasons stated above, Workers Defense Project opposes the Texas Workforce Commission’s Proposed Rule § 815.134(b).

Comment 65
Proposed Rules
Chapter 815
Marketplace

From: Apryl Randall [REDACTED]
Sent: Friday, January 18, 2019 5:03 PM
To: TWCPolicyComments
Cc: Jason Boulette
Subject: TWC Policy Comments
Attachments: 2019-01-18 - Firm Letter of Support.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Good afternoon,

Attached please find correspondence from Mr. Jason Boulette's regarding proposed rule changes.

Kind regards,

Apryl Randall
Boulette Golden & Marin
2801 Via Fortuna, Ste. 530
Austin, Texas 78746
Direct: (512) 732-2777
Fax: (512) 732-8905
[REDACTED]

Treasury Circular 230 Disclosure: To the extent this communication contains any statement regarding federal taxes, that statement was not written or intended to be used, and it cannot be used, by any person (i) as a basis for avoiding federal tax penalties that may be imposed on that person, or (ii) to promote, market or recommend to another party any transaction or matter addressed herein.

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January 18, 2019

Texas Workforce Commission
Workforce Program Policy
101 East 15th St. Rm 459T
Austin, Texas 78778
Attn.: Workforce Editing

Re: Proposed Rule Changes to Chapter 815

To Whom It May Concern,

I am a board-certified labor employment attorney who has practiced employment law in Austin, Texas, for over twenty years. My firm represents companies in multiple industries, including technology and retail.

I am writing in support of the proposed guidance found at Section 815.134(b) regarding the Commission's application of the Section 821.5 factors to marketplace contractors and digital platforms for purposes of making unemployment insurance determinations (the "Proposed Rules"). I appreciate the opportunity to comment on the Proposed Rules and applaud the Commission's forward-looking approach to this issue.

Importantly, the Proposed Rules provide a roadmap for digital platforms and marketplace contractors to consider when deciding how to structure their relationships, making it more likely those relationships will embody the principles found in the Proposed Rules.

For example, the Proposed Rules confirm that a true marketplace contractor retains total control over when, where, whether, and for whom he or she works and is in no way precluded from pursuing other earning opportunities, including directly competitive earning opportunities. Likewise, the Proposed Rules confirm that a true digital platform does not control the specific methods or means by which the digital contractors render service to the end-users requesting those services via the digital platform's app.

By providing this guidance in advance, in clearly stated terms specifically applicable to marketplace contractors and digital platforms, the Proposed Rules make it far more likely that marketplace contractors and digital platforms will incorporate these principles into their relationship and the manner in which they interact with one another and the public via the digital platform's app. In other words, by stating plainly that a true marketplace contractor retains freedom over when, where, how, and whether to work, the Proposed Rules make it more likely that

January 18, 2019

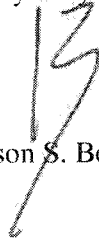
Page 2

marketplace contractors and digital platforms will structure their relationship in way that ensures marketplace contractors enjoy these freedoms. Likewise, by plainly stating that marketplace contractors retain the right to work for any digital platform, including competitive digital platforms, the Proposed Rules makes it more likely digital platforms will explicitly guarantee this right to the digital contractors using their app.

Moreover, by explicitly limiting the application of the Proposed Rules to digital platforms who connect members of the public with marketplace contractors via an app, the Proposed Rules make it plain that they have no application to the traditional models of employment.

I would like to thank you again for the opportunity to comment on the Proposed Rules. If you have any questions, please do not hesitate to contact me directly at the number listed above.

Very truly yours,



Jason S. Boulette

Comment 188
Proposed Rules
Chapter 815
Marketplace

From: Rebecca Rodriguez [REDACTED]
Sent: Monday, January 21, 2019 2:40 PM
To: TWCPolicyComments
Subject: Gig Workers

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Protect the workers. In an age where jobs that pay well are hard to come by instead of going onto welfare (which doesn't work) thank God for online platforms where people can not only earn money, but pay taxes and keep dignity. Don't favor commerce. They have enough benefits from the federal level.

Protect workers rights. Don't listen to the lobbyists who are getting paid HUGE dollars from these companies. Listen to the people who are the masses. Yes, it is good for companies to maximize profits, but people need to earn the maximum possible. Companies must not avoid fundamental labor laws.

Rebecca Rodriguez
719.576.0600
[REDACTED]

Comment 189
Proposed Rules
Chapter 815
Marketplace

From: Leslie Cunningham [REDACTED]
Sent: Monday, January 21, 2019 3:03 PM
To: TWCPolicyComments
Subject: Proposed Chapter 815 rule change regarding workers who use marketplace platforms

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

As a retired TWC employee who frequently encountered the misclassification of workers as "independent contractors," I am quite concerned about the TWC Commissioners' proposed new employment category of "marketplace contractors," who are "conduct[ing] their own independent businesses." You are about to make quite a momentous decision--to create a whole new classification of workers who will be considered not in employment, thus depriving these workers not only of unemployment insurance eligibility, but also of many other worker protections (such as wage and hour requirements and workers' compensation benefits). Of great importance from my vantage point late in life is retirement security--these workers will not earn any credits towards Social Security.

In UI Support Services, I frequently heard the term "contract labor." We were always told there was no such thing as contract labor; you were either employed or you were self employed (also called an independent contractor or a small business person). Sometimes the Tax Department would investigate and determine that the worker should have been listed as a payroll employee.

Of course as technology and the organization of work change, the employment status analysis also needs to evolve. But that doesn't mean we need a new category of "marketplace contractor." For example, it should not make any difference whether a worker gets his job instructions directly from his boss or through an impersonal web app. He or she may meet the criteria for being considered an employee, with the benefits and protections that come with that classification. "Marketplace contractor" should not be a special category that virtually automatically deprives a worker of such benefits and protections.

As you say, this business model is becoming more and more prevalent. More and more employers will find ways to designate employees as "marketplace contractors" and relieve the employer of any responsibility at all towards its workers (including that of paying UI taxes). There are good reasons why, over the last many decades, we've enacted laws extending worker benefits and protections; let's not cause more and more of our workforce members to be out entirely on their own, twisting in the wind.

Many states are recognizing the problems with this arrangement and are according at least some of the status of employee to many of the workers involved. It seems to me that with your proposal, you are moving Texas backward. This is a shame.

From: Mike Milligan [REDACTED]
Sent: Monday, January 21, 2019 3:25 PM
To: TWCPolicyComments
Subject: TWC Proposed Rule Change on Employment Status

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I agree wholeheartedly with the comments about the proposed rule by the state AFL-CIO and in the Houston Chronicle's recent op-ed. They and others have thoroughly addressed the impact the proposed change will have on the rights of Texas workers. I write to express my own concern about the competitive advantage the proposed change will give to opportunists who use digital platforms in lieu of the traditional employment model.

Simply put, classifying employees as independent contractors is highly lucrative, because legal protections for workers cost money. The Internal Revenue Service, the U.S. Department of Labor, and the National Labor Relations Board are all cracking down on misclassification. There is no reason for TWC to go in the opposite direction. Digital platforms are not job creators or good corporate citizens in any sense of those terms. They're not like call centers and retailers that we Texans want to establish a physical presence here as contributors to our economy and culture. Electronic entities do not deserve a huge break in their quest for a workforce that is a modern version of serfdom.

If they want that, let them make their plea to the Legislature as they have everywhere else they have sought this benefit. Frustrated in those attempts, they now try to make Texas the first state to give them their Holy Grail administratively.

Please, just say no.

Respectfully yours,
Michael T. Milligan

Law Office of Mike Milligan
4171 N. Mesa St., Suite B-201
El Paso, Texas 79902
915-544-5587

Comment 193
Proposed Rules
Chapter 815
Marketplace

From: Brian McClusky [REDACTED]
Sent: Monday, January 21, 2019 8:00 PM
To: TWCPolicyComments
Subject: Recent Rule

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

To whom it may concern,

I wish to state that I am opposed to a recent rule that your commission recently approved. I am referring to the rule that would classify most anyone hired from a website as an independent contractor. this type of ruling was rejected in 4 other States by lawmakers and rightfully so. The rule excludes workers from many protection and benefits and in doing so will undermine our future workforce.

Please reconsider this rule for what it is: unjust.

Sincerely,
Brian McClusky

Comment 195
Proposed Rules
Chapter 815
Marketplace

From: Richard Lee Griffin [REDACTED]
Sent: Monday, January 21, 2019 11:59 PM
To: TWCPolicyComments
Subject: Comment on Proposed Rule Amending § 815.134

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

I write very briefly to oppose adding a new subsection (b) to Rule 815.134. I write briefly because I just read the proposed addition.

I am an attorney. I have been licensed in Texas since 1976. I am Board Certified as a specialist in Labor and Employment Law and as a specialist in Civil Appellate Law by the Texas Board of Legal Specialization.

Holy Cow! This is a bad idea, and I hope the Commission will reconsider and withdraw the proposal.

I have watched with interest, as an employment lawyer and as a citizen, the struggle of Uber drivers to be recognized as employers, and the vigorous opposition waged by Uber against classification of its drivers as employees.

Why? To pass the burden of payroll taxes to the workers, and to avoid tax contributions to the unemployment insurance fund. Also, many worker protections do not apply to contractors: employment discrimination statutes (sex, race, age, disability, religion). This proposal would certainly give comfort to Uber and similar employers, completely stripping them of any liability for discrimination against its workers, not matter how blatant and horrible. It's a great big gift to a huge business, and I call it a gift because Uber et al give nothing back to society or programs such as unemployment insurance.

This is a government give-away.

The analysis that this change will not reduce tax revenue is ridiculous. Maybe it is true today. But it is dishonest because it will prevent litigation and action by the Texas Legislature that could very well increase tax revenue. Namely, finding, either by court or by statute, that such workers are employees and requiring Uber et al to pay their fair share into the unemployment fund. You must realize that the growth in this type of employment, if excluded from the unemployment benefits system, will produce more and more unemployed workers who do not get the protection of the state insurance meant to protect them, and the exclusion of this growth industry from payroll taxation will surely rob the fund of just and fair industry contributions.

Finally, it is so wrong to try to make this huge decision by regulation. This is a matter for the deliberation of the people's representatives and, if they so decide, legislation.

This is really pretty outrageous.

Sincerely yours,

Richard Lee Griffin
Attorney & Counselor at Law


P.O. Box 11885
Fort Worth, Texas 76110

817.926.8300



Board Certified in Labor & Employment Law
Board Certified in Civil Appellate Law
by the Texas Board of Legal Certification

Comment 201
Proposed Rules
Chapter 815
Marketplace

From: Joseph Arabie <
Sent: Tuesday, January 22, 2019 4:27 PM
To: TWCPolicyComments
Subject: Marketplace Contractors


CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

The Texas AFL-CIO posted a formal comment opposing a Texas Workforce Commission rule that would redefine "employment" by declaring workers at companies that operate exclusively via digital platforms to be "marketplace contractors." That status could deny some gig economy workers who currently qualify as employees major benefits like employer contributions toward Social Security and Medicare, overtime pay, Workers' Compensation and Unemployment Insurance, along with participation in health care, pension, paid sick, holiday leave and other important benefits.

This is totally unacceptable and will serve the employers of these marketplace contractors better than the worker themselves.

Thank You

Joe

Joseph Arabie
Director Field Ed & Research
Texas AFL-CIO
(512) 477- 6195
(512) 484- 1351 Cell


[REDACTED]

[REDACTED]

Comment 202
Proposed Rules
Chapter 815
Marketplace

From: Annette Spanhel <info@email.actionnetwork.org>
Sent: Tuesday, January 22, 2019 5:35 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.


Workforce Commission ,

am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Annette Spanhel


1081 Lonesome Trl
Driftwood, Texas 78619

████████████████████

Comment 203
Proposed Rules
Chapter 815
Marketplace

From: Delan Decker <info@email.actionnetwork.org>
Sent: Tuesday, January 22, 2019 8:32 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Delan Decker

1st

Thorndale , Texas 76577

Comment 204
Proposed Rules
Chapter 815
Marketplace

From: Thomas Lessner <
Sent: Wednesday, January 23, 2019 12:16 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Thomas Lessner

19206 Kristen way
San Antonio , Texas 78258

100 (100/100) 100 (100/100)

100 (100/100) 100 (100/100)

Comment 205
Proposed Rules
Chapter 815
Marketplace

From: Silvia Chicas <[REDACTED]>
Sent: Wednesday, January 23, 2019 2:06 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Silvia Chicas

1836 Sul Ross St. #1
Houston, Texas 77089

Comment 206
Proposed Rules
Chapter 815
Marketplace

From: Chris Wager Saldivar <[REDACTED]>
Sent: Wednesday, January 23, 2019 2:07 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Chris Wager Saldivar

1651 W Main St., Apt 1
Houston, Texas 77006

Comment 207
Proposed Rules
Chapter 815
Marketplace

From: Elaine Lantz <info@email.actionnetwork.org>
Sent: Wednesday, January 23, 2019 2:23 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Elaine Lantz

818 Elsbeth
Dallas, Texas 75208

Comment 208
Proposed Rules
Chapter 815
Marketplace

From: Synthia Almanza <[redacted]>
Sent: Wednesday, January 23, 2019 4:19 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

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Synthia Almanza

819 chance ln
baytown, tx 77521

Comment 209
Proposed Rules
Chapter 815
Marketplace

From: Peg & Bernie Jezercak <
Sent: Wednesday, January 23, 2019 5:08 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I cannot believe that the TWC would harm workers this way but as this has been proposed by you I guess I was wrong. I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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1804 Tree Line Drive
CARROLLTON, Texas 75007

Handy Technologies
251 Park Ave South
8th Floor
NY, NY 10010

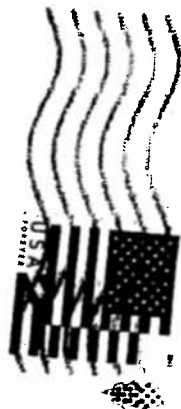
Comment 210
Proposed Rules
Ch. 815
Marketplace

TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing
101 E. 15th St, Room 459T
Austin, TX 78778

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January 16, 2019

TWC Policy Comments
Workforce Program Policy
Attn: Workforce Editing
101 East 15th Street, Room 459T
Austin, TX 78778

Re: Support for Amendment to Commission Rule 815.134

On behalf of Handy Technologies, Inc., I am writing to express our support for the proposed amendment to Commission Rule 815.134.

Handy is the country's leading on-line platform for connecting individuals who are looking for household services, such as home cleaning or plumbing, with independent professionals who provide those services. Handy was created as a solution to the time-consuming and often frustrating problem of having to find reliable, quality professionals for household projects. Handy's on-line platform streamlined this process. What previously could take days or weeks and countless phone calls and appointments, can now be accomplished with a 60-second online transaction.

To date, Handy has facilitated millions of bookings and has been used by over a hundred thousand independent professionals to connect with hundreds of thousands of customers across the country. Since Handy began operating in Texas in 2013, our network has grown to over 60,000 customers and 10,000 professionals in the state. In doing so, we have contributed millions and millions of dollars to the Texas economy and created job opportunities that pay on average almost \$18 per hour.

The service professionals who use the Handy platform are attracted by the income opportunities the platform provides, but just as important is the fact that the independent contractor relationship gives them increased flexibility and independence they are unable to find elsewhere. This flexibility and independence is a tremendous advantage for a large number of workers in Texas who need or prefer the flexibility the platform offers. We have talked to many of the professionals who use the Handy platform, and when asked why they use it and what they like about it, overwhelmingly the answer is the flexibility and independence they have. They can work two hours or twenty hours. They can take a week or a month off. They have complete control over their schedules and their careers.

Handy and the on-demand sector face risk, however, because the current rules governing the classification of contractors are outdated and do not fit the on-demand contractor model. The laws were developed decades ago and simply do not provide clear guidance for how workers in the new on-demand economy should be classified. This has created some confusion for individuals who have the opportunity to earn in the on-demand sector and puts companies like Handy at risk of lawsuits and other challenges, which threatens both the platforms and the benefits they offer to consumers and contractors.



The proposed rule provides needed clarification for worker classification in the on-demand sector by providing clear, objective criteria focusing on the types of factors that are relevant for the sector. By providing this clear, objective framework for everyone to follow, the amendment will bring needed clarity to the law, and enable the on-demand economy to continue to grow, innovate, and bring new income opportunities to the state.

Thank you for taking Handy's views into account. Please contact me if you have any questions or need any further information.

Respectfully submitted,

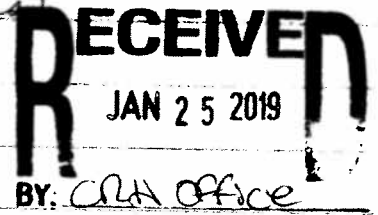
/s/ Brian J. Miller

Brian J. Miller
General Counsel

Handy Technologies
251 Park Ave, South
8th Floor
NY, NY 10010

Jan 23, 2019

Texas Workforce Commissioner
101 E. 15th St
Austin, TX 78778-0001



Dear Honorable Commissioners Hughes,
Alvarez and Thomas,

I am writing in regard to the
proposal currently before the
commission concerning "marketplace
contractors" vs "employees".

Should this proposal become policy
I feel it would further erode the
rights of middle class working
people. Benefits these people may
now have such as Social Security, Medi-
care, workers comp, unemployment
benefits, overtime pay etc would be
severely eroded if not completely lost.

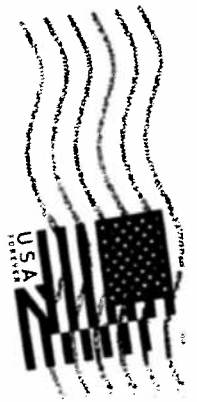
I feel these decisions should be left
to the legislative branch of government
and not to an appointed commission.

Sincerely,

Richard R. Rock, 1635 S Water St, Rockport, TX
783812



CORPUS CHRISTI
TX 784
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Texas Wildlife Commission
101 E 15th St
Austin, TX

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BY: COFFICE

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10 Jan 2015
TWC Policy Comments
Workforce 38 Program Policy
Attn: Workforce Editing
101 East 15TH St, Room 459T
Austin TX 78778

Dear TWC,

Your attempt to force workers who are hired via a web site to be considered independent contractors is another Republican attempt to hurt the middle class. You know full well that gig workers, as well as the many other who obtain jobs via the internet do not fulfill the federal definition of a contract worker. As political appointees and not elected officials, you should not be setting labor laws in this state. Shame on you for being so completely controlled by lobbyists. I bet you'll be getting some nice "gifts" for being lobbyists' stooges.
Charlene Kaiser, MD, MPH, CH, FACPM
774 Live Oak Pl
Pipe Creek TX 78063

TWC Policy Comments
Workforce 38 Program Policy
Attn: Workforce Editing
101 East 15TH St, Rm 459T
Austin, TX 78778

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USA

78778-



January 17, 2019

Texas Workforce Commission
TWC Policy Comments
Workforce 38 Program Policy
Attn: Workforce Editing
101 East 15th Street, Room 459T
Austin, Texas 78778

RE: Comments on Proposed Rule to Categorize Independent Contractor Status

Dear Program Policy Representative:

I read of the attempt by the Texas Workforce Commission to approve a rule to classify almost anyone hired from a website as an independent contractor as opposed to the legislative process on marketplace contractor bills. Obviously, this is a back door approach that should not be allowed.

This rule creates a blanket classification for workers hired by websites, contrary to the common law and legislative rules protecting employees by guaranteeing minimum wage and overtime as well as health and safety protections. This is a sad commentary on efforts to get around by declaring everyone hired on a website as an independent contractor vs. those that drop off their resume at the door or through the mail. This too could have a devastating effect on the economy by depriving individuals and families of insurance protections that is an important part of the employment decision process.

There are long standing rules that differentiate between employees that are controlled by an employer and those that are not. It is appalling that this is coming from digital marketplace networks that are in place to make money with a commission at the cost of an employee's potential workplace rights, probably unknown to them.

Keep the status quo, and do not allow this rule to pass.

Sincerely,

Constance R. Heiland, 891 Elkins Lake, Huntsville, Texas 77340



936-293-6509

Comment 211
Proposed Rules
Ch. 815
Marketplace



N HOUSTON
TX 773
17 JAN '19
PM 2 L

Mrs. Constance Atkins
891 Elkins Lk.
Huntsville, TX 77340

Texas Workplace Commission
TWC Policy Committee
Workforce 38 Program Policy
Attn: Workforce-Editing
101 East 15th St, Ext, Room 459 T
Austin, TX 78778
78778-

Comment 66
Proposed Rules
Chapter 815
Marketplace

From: Amy Kamp <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 11:04 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Amy Kamp

[REDACTED]

6103 Manor Rd Apt 248
Austin, Texas 78723

Comment 67
Proposed Rules
Chapter 815
Marketplace

From: Margaret Garza [REDACTED]
Sent: Saturday, January 19, 2019 2:03 PM
To: TWCPolicyComments
Subject: I strongly oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Margaret Garza

[REDACTED]
8606 Running Quail
San Antonio, Texas 78250

Comment 68
Proposed Rules
Chapter 815
Marketplace

From: Roel Cantu <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:04 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.


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Workforce Commission,

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Roel Cantu

1010 Hollyfield St
Mission, Texas 78572

Comment 69
Proposed Rules
Chapter 815
Marketplace

From: A Patterson <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:05 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission,

I am writing to urge you to oppose the rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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A Patterson

[REDACTED]

Po box 180982
Dallas, Texas 75218

Comment 70
Proposed Rules
Chapter 815
Marketplace

From: Heather Buen <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:06 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". Rules like this allow employers to take advantage of employees. If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Heather Buen

[REDACTED]

Hurst, Texas 76053

Comment 71
Proposed Rules
Chapter 815
Marketplace

From: Summer Lollie <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:10 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

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Summer Lollie

[REDACTED]

DeSoto, Texas 75115

Comment 72
Proposed Rules
Chapter 815
Marketplace

From: Mark Maldonado <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:13 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Mark Maldonado

[REDACTED]

Austin, Texas, Texas 78701

Comment 73
Proposed Rules
Chapter 815
Marketplace

From: Jessie Casteel [REDACTED]
Sent: Saturday, January 19, 2019 2:15 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Jessie Casteel

[REDACTED]
10811 Greenwillow St 20
Houston, Texas 77035-5043

Comment 74
Proposed Rules
Chapter 815
Marketplace

From: Bob Rankin <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:15 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

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Bob Rankin



6652 Ruxton Ln
Austin, Texas 78749-4101

Comment 75
Proposed Rules
Chapter 815
Marketplace

From: Traci Dunlap <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:19 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

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Traci Dunlap



5101 Peppertree Pkwy
Austin , Texas 78744

Comment 76
Proposed Rules
Chapter 815
Marketplace

From: Robert Maldonado [REDACTED]
Sent: Saturday, January 19, 2019 2:19 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Robert Maldonado
[REDACTED]
18218 Wren Song dr
Cypress, Texas 77429

Comment 77
Proposed Rules
Chapter 815
Marketplace

From: David Edmonds <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:22 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

David Edmonds

[REDACTED]

130 Reenie Dr.
Cameron, Texas 76520

Comment 78
Proposed Rules
Chapter 815
Marketplace

From: Clyff Curry [REDACTED]
Sent: Saturday, January 19, 2019 2:28 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Clyff Curry
[REDACTED]
510 Crescent St.
Waco, Texas 76705

Comment 79
Proposed Rules
Chapter 815
Marketplace

From: Sharon Salih [REDACTED]
Sent: Saturday, January 19, 2019 2:34 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Sharon Salih
[REDACTED]
5051 Tierney Ct South
Fort Worth Tx, Texas 76112

Comment 80
Proposed Rules
Chapter 815
Marketplace

From: Rick Potthoff <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:35 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I oppose any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay.

They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule. Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Rick Potthoff



1814 Pine Village
Houston, Texas 77080-7102

Comment 81
Proposed Rules
Chapter 815
Marketplace

From: Jack Janow [REDACTED]
Sent: Saturday, January 19, 2019 2:36 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Jack Janow
[REDACTED]
4205 47th
Lubbock, Texas 79413

Comment 82
Proposed Rules
Chapter 815
Marketplace

From: Dallas Windham [REDACTED]
Sent: Saturday, January 19, 2019 2:45 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Dallas Windham
[REDACTED]
4222 W Pioneer Dr #1068
Irving, Texas 75061

Comment 83
Proposed Rules
Chapter 815
Marketplace

From: carolyn burton [REDACTED]
Sent: Saturday, January 19, 2019 2:46 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

carolyn burton
[REDACTED]
940 W. Round Grove Rd.
Lewisville, Texas 75067

Comment 84
Proposed Rules
Chapter 815
Marketplace

From: Michele Chapman [REDACTED]
Sent: Saturday, January 19, 2019 2:46 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Michele Chapman
[REDACTED]
153 Silverado Dr.
Georgetown, Texas 78633

Comment 85
Proposed Rules
Chapter 815
Marketplace

From: Joshua Seff [REDACTED]
Sent: Saturday, January 19, 2019 2:47 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Joshua Seff
[REDACTED]
9508 George Washington Dr
Mckinney, Texas 75070

Comment 86
Proposed Rules
Chapter 815
Marketplace

From: Bonnie Lynn MacKinnon <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:49 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Bonnie Lynn MacKinnon

[REDACTED]

1603 S Elm St
Georgetown, Texas 78626

Comment 87
Proposed Rules
Chapter 815
Marketplace

From: Elmer McKeegan <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:52 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Elmer McKeegan

[REDACTED]

645 Lake Bluff Drive
Flower Mound, Texas 75028

Comment 88
Proposed Rules
Chapter 815
Marketplace

From: Rusty Kuciemba <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:56 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Rusty Kuciemba

[REDACTED]

902 W Dogwood St.
Woodville, Texas 75979

Comment 89
Proposed Rules
Chapter 815
Marketplace

From: Sean Mendoza <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 2:58 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Sean Mendoza

[REDACTED]

608 Sierra Blanca dr.
FORT WORTH, Texas 76179

Comment 90
Proposed Rules
Chapter 815
Marketplace

From: Mary Schmidt <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:03 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Mary Schmidt

[REDACTED]

160 pr 6730
Devine, Texas 78016

Comment 91
Proposed Rules
Chapter 815
Marketplace

From: Paul Garza [REDACTED]
Sent: Saturday, January 19, 2019 3:14 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Paul Garza
[REDACTED]
412 fleetwood
San Antonio, Texas 78232

Comment 92
Proposed Rules
Chapter 815
Marketplace

From: Gene Lantz <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:16 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Gene Lantz

[REDACTED]

818 Elsbeth
Dallas, Texas 75208

Comment 93
Proposed Rules
Chapter 815
Marketplace

From: Lori Sustaita <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:17 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Lori Sustaita



301 Lancaster
Longview , Texas 75601

Comment 94
Proposed Rules
Chapter 815
Marketplace

From: Robert Parrott <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:26 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Robert Parrott



8930 Maverick Draw
San Antonio, Texas 78250

Comment 95
Proposed Rules
Chapter 815
Marketplace

From: NANCY CROWTHER [REDACTED]
Sent: Saturday, January 19, 2019 3:27 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

The proposed rules for exempt employees from gaining earned benefits such as social security is unamerican! I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance, and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, but it's also not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits. We cannot afford to lose benefits rightfully earned.

NANCY CROWTHER
[REDACTED]
2102 LEWOOD CIR
AUSTIN, Texas 78745

Comment 96
Proposed Rules
Chapter 815
Marketplace

From: Amy Mullin <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:37 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Amy Mullin

[REDACTED]

1006 Banister Ln Apt 101
AUSTIN, Texas 78704

Comment 97
Proposed Rules
Chapter 815
Marketplace

From: Sonia Lara <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:43 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Sonia Lara



8817 Francia Trl.
Austin, Texas 78748

Comment 98
Proposed Rules
Chapter 815
Marketplace

From: Amanda Cavazos Weems <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:45 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Amanda Cavazos Weems

[REDACTED]

3400 Ruby Red Drive
Austin, Texas 78728

Comment 99
Proposed Rules
Chapter 815
Marketplace

From: Jacob Aronowitz <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:48 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Jacob Aronowitz

[REDACTED]

6403B Chimney Creek Circle
Austin, Texas 78723

Comment 100
Proposed Rules
Chapter 815
Marketplace

From: Pauline Mims <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:48 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Pauline Mims

[REDACTED]

2952 Vottierno Dr
Grand Prairie, Texas 75052

Comment 101
Proposed Rules
Chapter 815
Marketplace

From: Cynthia Sanders [REDACTED]
Sent: Saturday, January 19, 2019 3:48 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Cynthia Sanders
[REDACTED]
5912 RICE ROAD
PEARLAND, Texas 77581

Comment 102
Proposed Rules
Chapter 815
Marketplace

From: Latife Bechara-Medina [REDACTED]
Sent: Saturday, January 19, 2019 3:50 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Latife Bechara-Medina
[REDACTED]
522 Sorrell Street
Corpus Christi, Texas 78404

Comment 103
Proposed Rules
Chapter 815
Marketplace

From: Justin Bautista <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:50 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. The affected employees with this new rule change could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule - PLEASE vote NO on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker; this seems to overreaching your authority. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC is supposed to be a governmental agency that supports working Texans, not corporations. The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Justin Bautista



1900 Bay Area Blvd #F148
Houston, Texas 77058

Comment 104
Proposed Rules
Chapter 815
Marketplace

From: Tara Havner <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 3:52 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.


Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

We already short cut our police and make special circumstances so that people that make important decisions and carry a weapon can work 98 hours without compensation and to top it off do not get paid for overtime and make less than teachers !!! But we pay billions of dollars to you, to set behind a desk and figure out more ways to put your fellow Americans further down so that you may step on more of us at once so that you can have more homes or bigger homes when we can not even afford one at all !! You need to stop !! American are starting to wake up

Tara Havner

1325 Palm St
Abilene, Texas 79602

Comment 105
Proposed Rules
Chapter 815
Marketplace

From: Emily Carter [REDACTED]
Sent: Saturday, January 19, 2019 3:56 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Emily Carter

[REDACTED]
8 Country Place Dr.
Wimberley, Texas 78676

Comment 106
Proposed Rules
Chapter 815
Marketplace

From: Pamela Bendix <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 4:07 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Pamela Bendix

[REDACTED]

7161 Ne Hidden Cove Rd
Bainbridge Island, Washington 98110

Comment 107
Proposed Rules
Chapter 815
Marketplace

From: Greg Lahner <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 4:08 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Greg Lahner

[REDACTED]

1411 Lamar dr
La marque, Texas 77568-0594

Comment 108
Proposed Rules
Chapter 815
Marketplace

From: Kenneth Dearing <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 4:17 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Kenneth Dearing

[REDACTED]

2507 Oleander Dr
Pasadena, Texas 77503

Comment 109
Proposed Rules
Chapter 815
Marketplace

From: Jason Lopez <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 4:24 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Jason Lopez

[REDACTED]

5107 CREEKLINE DR
AUSTIN, Texas 78745

Comment 110
Proposed Rules
Chapter 815
Marketplace

From: Rick Levy <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 4:57 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Rick Levy

[REDACTED]

1204 San Antonio
Austin, Texas 78701

Comment 111
Proposed Rules
Chapter 815
Marketplace

From: Ellen Wakefield [REDACTED]
Sent: Saturday, January 19, 2019 5:20 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Just so we are clear, I oppose rules that would exempt employers from fairly compensating their employees, just because they use an app.

Ellen Wakefield
[REDACTED]
5763 Fleming Ct.
Watauga, Texas 76148

Comment 112
Proposed Rules
Chapter 815
Marketplace

From: Angela Orr Heath <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 5:30 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Angela Orr Heath



9222 Flickering Shadow Drive
Dallas, Texas 75243

Comment 113
Proposed Rules
Chapter 815
Marketplace

From: Kris Bentley <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 5:41 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.


CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Kris Bentley

10718 Pagewood Dr
Dallas, Texas 75230

Comment 114
Proposed Rules
Chapter 815
Marketplace

From: William Jordan [REDACTED]
Sent: Saturday, January 19, 2019 5:47 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

William Jordan
[REDACTED]
5515 Castle Knight
San Antonio, Texas 78218

Comment 115
Proposed Rules
Chapter 815
Marketplace

From: Carl Webb <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 5:51 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Carl Webb

[REDACTED]

605 Masterson Pass Apt 835
Austin, Texas 78753-3774

Comment 116
Proposed Rules
Chapter 815
Marketplace

From: Sophia Castillo <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 5:57 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Sophia Castillo

[REDACTED]

1227 Del Norte
Houston , Texas 77018

Comment 117
Proposed Rules
Chapter 815
Marketplace

From: Joanna Vaughn <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 6:03 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Joanna Vaughn

[REDACTED]

1008 east 14 street
Austin, Texas 78702

Comment 118
Proposed Rules
Chapter 815
Marketplace

From: Erica Robinson [REDACTED]
Sent: Saturday, January 19, 2019 6:15 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Erica Robinson

[REDACTED]
5942 Spellman Rd
TX, Texas 77096-5841

Comment 119
Proposed Rules
Chapter 815
Marketplace

From: Phyllis Goines [REDACTED]
Sent: Saturday, January 19, 2019 6:22 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Phyllis Goines

[REDACTED]
2809 Finley Street
Fort Worth , Texas 76111

Comment 120
Proposed Rules
Chapter 815
Marketplace

From: Enrique Mata <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 6:40 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Enrique Mata



13229 Force St.
Houston , Texas 77015

Comment 121
Proposed Rules
Chapter 815
Marketplace

From: Rose Brown <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 6:47 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Rose Brown



2137 Sea Island Drive
Dallas, Texas 75232

Comment 122
Proposed Rules
Chapter 815
Marketplace

From: Jeffrey Darby <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 6:49 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,
There is a form letter following this, but as I have nearly 30 years of experience investigating companies that misclassify employees under Federal labor law, including the Fair Labor Standards Act, I can add a personal touch.

Not only does this TWC proposal give the "green light" to Texas employers to move forward with bad policy, it can give them a green light to violate Federal minimum wage, overtime, child labor, safety and health, unemployment, workers compensation, and Social Security laws and regulations, among others.

Every time we see a movement to "modernize" labor regulations, all it leads to is more worker insecurity and more profits for unscrupulous companies.

Just stop this ill-thought out proposal until you hear from experts apart from the conservative movement's echo chamber.

As promised, here is the form letter:

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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employment benefits.

Jeffrey Darby

[REDACTED]

1515 N 26TH ST

NEDERLAND, Texas 77627-5718

Comment 123
Proposed Rules
Chapter 815
Marketplace

From: Marsaleene Nesmith <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 6:50 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Marsaleene Nesmith

[REDACTED]

13330 moss hill dr.
beaumont, Texas 77713

Comment 124
Proposed Rules
Chapter 815
Marketplace

From: Kristen O'Brien <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 6:53 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Kristen O'Brien



1221 Algarita Avenue
Austin, Texas 78704

Comment 125
Proposed Rules
Chapter 815
Marketplace

From: Howard Haralson <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 7:11 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

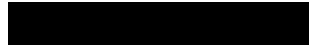
Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Howard Haralson



23492 S FM 4
Lipan, Texas 76462

Comment 126
Proposed Rules
Chapter 815
Marketplace

From: Phil Bunker <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 7:17 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

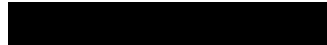
Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Phil Bunker



6601 Haney dr
Austin, Texas 78723

Comment 127
Proposed Rules
Chapter 815
Marketplace

From: Daniel Stender <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 7:36 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Daniel Stender



360 Spur Trail
Seguin, Texas 78155

Comment 128
Proposed Rules
Chapter 815
Marketplace

From: Kimberly Hildreth [REDACTED]
Sent: Saturday, January 19, 2019 8:25 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Kimberly Hildreth

[REDACTED]
4255 Summit Ridge Dr.
Dallas, Texas 75216

Comment 129
Proposed Rules
Chapter 815
Marketplace

From: Albert Dirla <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 8:41 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Albert Dirla

[REDACTED]

2004 Robinson St.
Irving, Texas 75060

Comment 130
Proposed Rules
Chapter 815
Marketplace

From: SHWE AUNG [REDACTED]
Sent: Saturday, January 19, 2019 8:46 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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SHWE AUNG
[REDACTED]
Houston, Texas 77079

Comment 131
Proposed Rules
Chapter 815
Marketplace

From: Pam Evans <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 9:20 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Pam Evans



PO Box 644
Kemp, Texas 75143

Comment 132
Proposed Rules
Chapter 815
Marketplace

From: Sean Forkner <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 9:22 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.


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Workforce Commission ,

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Sean Forkner

8608 Cretys Cv
Austin , Texas 78745

Comment 133
Proposed Rules
Chapter 815
Marketplace

From: Gary Peterson <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 9:38 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Gary Peterson

[REDACTED]

8825 Turnberry Court
Fort Worth, Texas 76179

Comment 134
Proposed Rules
Chapter 815
Marketplace

From: Stevan Ruiz <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 9:47 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Stevan Ruiz

[REDACTED]

1016 reed st
Hurst, Texas 76053

Comment 135
Proposed Rules
Chapter 815
Marketplace

From: Sam Bortnick <info@email.actionnetwork.org>
Sent: Saturday, January 19, 2019 10:25 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to express my utter disgust at this new law being pushed through. It is nothing more than robbery and should be blocked. Any individual working for a company, regardless of whether it's under the same roof or remotely, deserves the benefits of an employee in this state.

Block this legislation!!

Thanks,

Sam Bortnick


3617 Routh Street
Dallas, Texas 75219

Comment 136
Proposed Rules
Chapter 815
Marketplace

From: Mason Cutchins <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 12:02 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Mason Cutchins

[REDACTED]

1600 n 9th st 722
Midlothian tx, Texas 76065

Comment 137
Proposed Rules
Chapter 815
Marketplace

From: Bob Cash <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 12:15 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Bob Cash

[REDACTED]

7000 Timarou
Austin, Texas 78754

Comment 138
Proposed Rules
Chapter 815
Marketplace

From: Debra Birkholz <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 2:19 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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sincerely,

Debra Birkholz

[REDACTED]

3805 Bliss Ave..
El Paso, Texas 79903

Comment 139
Proposed Rules
Chapter 815
Marketplace

From: Barbara Mayo [REDACTED]
Sent: Saturday, January 19, 2019 9:12 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Barbara Mayo
[REDACTED]
2810 Buckeye trl
Cedar Parrk, Texas 78613

Comment 140
Proposed Rules
Chapter 815
Marketplace

From: James Ryan [REDACTED]
Sent: Saturday, January 19, 2019 9:55 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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James Ryan
[REDACTED]
7302 Heards Ln Apt 134
Galveston, Texas 77551

Comment 141
Proposed Rules
Chapter 815
Marketplace

From: Linda Durden <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 3:40 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Linda Durden

[REDACTED]

5745 Phyllis Ln
Beaumont , Texas 77713

Comment 142
Proposed Rules
Chapter 815
Marketplace

From: Sarah Jarratt <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 5:06 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Sarah Jarratt

[REDACTED]

346 East Klein Road
New Braunfels , Texas 78130

Comment 143
Proposed Rules
Chapter 815
Marketplace

From: Timothy Jorgensen <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 5:23 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Timothy Jorgensen

[REDACTED]

2017 16th
Lubbock, Texas 79401

Comment 144
Proposed Rules
Chapter 815
Marketplace

From: BEVERLY DEUTSCH <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 5:34 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

TWC seems to consistently work against workers, rather than helping workers and this is another example. I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

BEVERLY DEUTSCH
[REDACTED]
4605 RICHMOND AVE
AUSTIN, Texas 78745

Comment 145
Proposed Rules
Chapter 815
Marketplace

From: Laurel Hays [REDACTED]
Sent: Sunday, January 20, 2019 5:00 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Laurel Hays

[REDACTED]
9329 Spring Branch Dr
Houston, Texas 77080

Comment 146
Proposed Rules
Chapter 815
Marketplace

From: Steven Sprenger [REDACTED]
Sent: Sunday, January 20, 2019 5:45 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Steven Sprenger

[REDACTED]
15221 Preston rd, 2035
Dallas, Texas 75248

Comment 147
Proposed Rules
Chapter 815
Marketplace

From: Mary Fitzgibbon [REDACTED]
Sent: Sunday, January 20, 2019 7:10 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Mary Fitzgibbon
[REDACTED]
2202 Mattie Circle
Copperas Cove, Texas 76522

Comment 148
Proposed Rules
Chapter 815
Marketplace

From: Cathy Hazzard <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 7:52 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Cathy Hazzard

[REDACTED]

6910 Country Rose
San Antonio , Texas 78240

Comment 149
Proposed Rules
Chapter 815
Marketplace

From: Jo-El Onstad <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 8:19 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Jo-El Onstad

[REDACTED]

6139 Brandys Farm
San Antonio, Texas 78244-1346

Comment 150
Proposed Rules
Chapter 815
Marketplace

From: Kay Burnett <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 8:56 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Kay Burnett

[REDACTED]

2013 Lakeridge Blvd.
Sunset, Texas 76270

Comment 151
Proposed Rules
Chapter 815
Marketplace

From: Earl Ehlers <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 9:23 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Earl Ehlers

[REDACTED]

9811 Blue Bird
La Porte, Texas 77571

Comment 152
Proposed Rules
Chapter 815
Marketplace

From: Eldon Ehlers <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 9:24 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.


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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Eldon Ehlers

1408 Pearson
Houston, Texas 77023

Comment 153
Proposed Rules
Chapter 815
Marketplace

From: Daniel Wedelich <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 9:24 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Daniel Wedelich



117 Mistletoe Street
Lake Jackson, Texas 77566

Comment 154
Proposed Rules
Chapter 815
Marketplace

From: Darrell Garza <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 9:25 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Darrell Garza



315 CrownHill Dr
Pleasanton, Texas 78064

Comment 155
Proposed Rules
Chapter 815
Marketplace

From: Paul Arebalo Jr <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 9:31 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Paul Arebalo Jr

[REDACTED]

2808 Skyway Circle, #101
Austin, Texas 78704

Comment 156
Proposed Rules
Chapter 815
Marketplace

From: Michelle Quiter <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 9:45 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Michelle Quiter

[REDACTED]

4839 Brandeis St Apt 513
San Antonio, Texas 78249

Comment 157
Proposed Rules
Chapter 815
Marketplace

From: Jennifer Trybom [REDACTED]
Sent: Sunday, January 20, 2019 9:47 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

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Jennifer Trybom

[REDACTED]
121 willow path
, Texas TX

Comment 158
Proposed Rules
Chapter 815
Marketplace

From: Jim Vogas <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 10:06 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

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Jim Vogas

[REDACTED]

614 W. Castle Harbour Dr.
Friendswood, Texas 77546

Comment 159
Proposed Rules
Chapter 815
Marketplace

From: Scott Emerson-Price [REDACTED]
Sent: Sunday, January 20, 2019 11:14 AM
To: TWCPolicyComments
Cc: Mike Phillips; Hector E. Garcia; Walker Moore; Dorothy Hoel
Subject: TWC Policy Comments, Workforce Program Policy, Attn: Workforce Editing
Attachments: COPS Metro Comments.pdf

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

COPS/Metro Alliance Comments on Proposed amendments to Chapter 815, relating to Unemployment Insurance: Subchapter C. Tax Provisions, §815.134

Communities Organized for Public Service and the Metro Alliance (COPS/Metro) is an organization of congregations, schools, and unions in the San Antonio metropolitan area coming together to act on behalf of children, families, and neighborhoods.

COPS/Metro leaders have reviewed the Texas Workforce Commission (TWC) proposed amendments approved on December 4, 2018, to Chapter 815, Subchapter C, Tax Provisions, §815.134.

Based on our mandate to advocate for families, COPS/Metro asks the TWC to NOT publish the proposed amendments. Our reasoning is presented below.

* Low Pay without Benefits: Our institutions' members have seen firsthand how independent contractor work is often for very low pay without benefits, making it impossible to support their families and provide health insurance and retirement savings. As reported on the Texas Medical Association website, Texas has the highest percentage of people without health insurance in the U.S., leading to worse health and reduced earning ability [1]. Texas families do not prosper when they lack employment benefits.

* Encourages more Misclassification: According to a 2013 report by the Treasury Inspector General [2], millions of Americans are misclassified as independent contractors across the U.S. Based on the experiences of our institutions' members, this is a large and growing problem in Texas. This also places a large financial burden on the Texas unemployment insurance (UI) program: a 2000 US Dept. of Labor study found that misclassification of just 1% of workers would result in a loss of \$198M to the nations UI programs [3]. Unfortunately, less scrupulous companies have pushed the limits of the law on employee classification, forcing other companies to follow suit to remain competitive. The proposed amendment would encourage more companies to aggressively push the legal limits on worker classification.

* Common Law Test Works: As a simple matter of fairness, the common law test provided in 40 TAC §821.5 should be applied equally to traditional brick and mortar businesses and their newer online competitors. Texas should not place traditional brick and mortar stores, which give our communities a sense of place, at a disadvantage.

* Defer to the Texas Legislature: The 85th legislature found it necessary to pass House Bill 100 placing more strict requirements on transportation network companies such as Uber and Lyft. With such a large potential negative effect on Texas families, the TWC should defer to the Texas Legislature on this issue and not proceed with the proposed amendments.

References

[1] Texas Alliance for Health Care, "The Impact of Uninsurance on Texas' Economy," 2019.

[2] Treasury Inspector General for Tax Administration, "Employers Do Not Always Follow Internal Revenue Service Worker Determination Rulings," 2013.

[3] Planmatics, Inc. for US Dept. of Labor, "Independent Contractors: Prevalence and Implications for Unemployment Insurance Programs," 2000.

Comment 160
Proposed Rules
Chapter 815
Marketplace

From: Montserrat Garibay <info@email.actionnetwork.org>
Sent: Sunday, January 20, 2019 11:15 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Montserrat Garibay

[REDACTED]

1401 cripple creek
Austin, Texas 78758

Comment 161
Proposed Rules
Chapter 815
Marketplace

From: Ashley Hammitt [REDACTED]
Sent: Sunday, January 20, 2019 11:34 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Ashley Hammitt

[REDACTED]

Ashley
Cedar Park, Texas 78613

Comment 162
Proposed Rules
Chapter 815
Marketplace

From: Craig Deats [REDACTED]
Sent: Sunday, January 20, 2019 11:45 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Craig Deats

[REDACTED]
3310 Big Bend Drive
Austin, Texas 78731

Comment 163
Proposed Rules
Chapter 815
Marketplace

From: James David [REDACTED]
Sent: Sunday, January 20, 2019 12:05 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

James David
[REDACTED]
11 BURWOOD LN
SAN ANTONIO, Texas 78216-7038

Comment 164
Proposed Rules
Chapter 815
Marketplace

From: Thomas Jones [REDACTED]
Sent: Sunday, January 20, 2019 12:11 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Thomas Jones
[REDACTED]

6945 I-10 Frontage Rd. APT. # 148
San Antonio , Texas 78213

Comment 165
Proposed Rules
Chapter 815
Marketplace

From: Michael Botson [REDACTED]
Sent: Sunday, January 20, 2019 12:19 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Michael Botson
[REDACTED]

2023 Wakefield Dr.
Houston Texas, Texas 77018

Comment 166
Proposed Rules
Chapter 815
Marketplace

From: Mark Mckim [REDACTED]
Sent: Sunday, January 20, 2019 1:04 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Mark Mckim
[REDACTED]

2906 E Martin Luther King Jr Blvd Apt 2405
AUSTIN, Texas 78702

Comment 167
Proposed Rules
Chapter 815
Marketplace

From: Martha Eberle [REDACTED]
Sent: Sunday, January 20, 2019 2:25 PM
To: TWCPolicyComments
Subject: *****I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission SHOULD NOT HAVE THE ABILITY TO DEFINE A NEW CATEGORY OF WORKER -- THESE PEOPLE ARE NOT ELECTED!!! These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote NO on giving employers the go ahead to misclassify employees ***to save money and absolve themselves from giving employees basic employment benefits.***

Martha Eberle
[REDACTED]

2525 McGregor Ln
Dripping Springs, Texas 78620

Comment 168
Proposed Rules
Chapter 815
Marketplace

From: Jenette Champagne [REDACTED]
Sent: Sunday, January 20, 2019 3:07 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Jenette Champagne
[REDACTED]

6 Pebble Hollow Ct.
The Woodlands, Texas 77381

Comment 169
Proposed Rules
Chapter 815
Marketplace

From: Jim Wshington [REDACTED]
Sent: Sunday, January 20, 2019 3:09 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Jim Washington

[REDACTED]
3502 Englewood Dr
PEARLAND, Texas 77584

Comment 170
Proposed Rules
Chapter 815
Marketplace

From: Sarah Swallow [REDACTED]
Sent: Sunday, January 20, 2019 3:48 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Sarah Swallow

[REDACTED]
1501 North Loop Blvd Apt 110
Austin, Texas 78756

Comment 171
Proposed Rules
Chapter 815
Marketplace

From: Gary Martinez [REDACTED]
Sent: Sunday, January 20, 2019 3:57 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Gary Martinez

[REDACTED]
197 Martin Crossing Dr
Cedar Creek, Texas 78612

Comment 172
Proposed Rules
Chapter 815
Marketplace

From: Mary Cato [REDACTED]
Sent: Sunday, January 20, 2019 5:57 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Mary Cato

[REDACTED]
1807 Pecan Park Drive
Arlington, Texas 76012

Comment 173
Proposed Rules
Chapter 815
Marketplace

From: Erik Garcia [REDACTED]
Sent: Sunday, January 20, 2019 6:17 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Erik Garcia

[REDACTED]
201 Jaguar Lane
Clint, Texas 79836

Comment 174
Proposed Rules
Chapter 815
Marketplace

From: Ben Lilienfeld [REDACTED]
Sent: Sunday, January 20, 2019 9:09 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Ben Lilienfeld
[REDACTED]

1300 Rollingbrook St Ste 504
Baytown, Texas 77521

Comment 175
Proposed Rules
Chapter 815
Marketplace

From: Amanda Vermillion [REDACTED]
Sent: Sunday, January 20, 2019 9:41 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Amanda Vermillion
[REDACTED]

1009 3rd Street
Seabrook, Texas 77586

Comment 176
Proposed Rules
Chapter 815
Marketplace

From: Ed Perry [REDACTED]
Sent: Sunday, January 20, 2019 10:09 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Ed Perry

[REDACTED]
1532 Rosewood Terrace
NEW BRAUNFELS, Texas 78132

Comment 177
Proposed Rules
Chapter 815
Marketplace

From: Tom Cummins [REDACTED]
Sent: Sunday, January 20, 2019 11:36 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Tom Cummins

[REDACTED]
5923 Woodridge Rock
San Antonio, Texas 78249

Comment 178
Proposed Rules
Chapter 815
Marketplace

From: Linda Palomo [REDACTED]
Sent: Monday, January 21, 2019 7:22 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Linda Palomo
[REDACTED]

805 Shady Ln.
La Marque, Texas 77568

Comment 179
Proposed Rules
Chapter 815
Marketplace

From: Craig Miller [REDACTED]
Sent: Monday, January 21, 2019 8:30 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Craig Miller

[REDACTED]
1813 Orchard Lane
Waco TX, Texas 76705

Comment 180
Proposed Rules
Chapter 815
Marketplace

From: Larry Chamberlain [REDACTED]
Sent: Monday, January 21, 2019 9:13 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Larry Chamberlain
[REDACTED]

5821 Park View Dr
Midlothian, Texas 76065

Comment 181
Proposed Rules
Chapter 815
Marketplace

From: Elizabeth ODear [REDACTED]
Sent: Monday, January 21, 2019 9:33 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Elizabeth ODear

[REDACTED]
4301 Bissonnet St apt 75
Bellaire, Texas 77401

Comment 182
Proposed Rules
Chapter 815
Marketplace

From: Henry Dietz [REDACTED]
Sent: Monday, January 21, 2019 9:36 AM
To: TWCPolicyComments
Subject: I oppose proposed changes to TAC 815.134 that are duplicative, misleading, and unnecessary..

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

The proposed changes to Texas Administrative Code, Chapter 815.134 that classifies "employees" as "marketplace contractors" is unnecessary and misleading. Existing rules in TAC 815.134 and 821.5, as well as in Chapter 201 of the Texas Labor Code, more than adequately specify the attributes of an "independent contractor". This change introduces vague and misleading terminology to attempt a redefinition. Introducing confusion and duplication to TAC 815 will not strengthen the Texas workforce but weaken it with countless administrative and court actions, leading employers and employees alike to seek work-friendlier states that now only envy the success of Texas.

Thank you.

Henry Dietz

[REDACTED]
4301 EDGEMONT DR
AUSTIN, Texas 78731

Comment 183
Proposed Rules
Chapter 815
Marketplace

From: Taneaia Lednický [REDACTED]
Sent: Monday, January 21, 2019 10:33 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

CAUTION: Email not from TWC System. Use care when clicking links and opening attachments.

Workforce Commission ,

We don't mind working hard, but we deserve the benefits that being an employee provides. Do not push more families over the economic cliff.

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

Not only is this rule bad for working Texans, it's not good democracy. The Texas Workforce Commission should not have the power to define a new category of worker. These kinds of decisions should be made by bodies such as the Texas or U.S Legislatures that are usually assigned with the task of deliberating over decisions that have an enormous impact on all Texans.

The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Thank you for your time.

Taneaia Lednický

[REDACTED]
1811 Morgan St
Irving, Texas 75062

Comment 184
Proposed Rules
Chapter 815
Marketplace

From: Diana Adamson [REDACTED]
Sent: Monday, January 21, 2019 10:56 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

Diana Adamson
[REDACTED]

4700 cap rock
Austin, Texas 78735

Comment 185
Proposed Rules
Chapter 815
Marketplace

From: william mason [REDACTED]
Sent: Monday, January 21, 2019 11:11 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

william mason
[REDACTED]

3124 timberline dr.
fort worth, Texas 76119

Comment 186
Proposed Rules
Chapter 815
Marketplace

From: Paul Sawyer [REDACTED]
Sent: Monday, January 21, 2019 11:11 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Paul Sawyer
[REDACTED]

POBox 227232
Dallas , Texas 75222

Comment 187
Proposed Rules
Chapter 815
Marketplace

From: Jana Reid [REDACTED]
Sent: Monday, January 21, 2019 12:11 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Jana Reid

[REDACTED]
701 Summerlin Drive
Granbury, Texas 76048

Comment 191
Proposed Rules
Chapter 815
Marketplace

From: Sheri Reiter [REDACTED]
Sent: Monday, January 21, 2019 3:39 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Sheri Reiter

[REDACTED]
851 Via Alta Lane
El Paso, Texas 79912

Comment 192
Proposed Rules
Chapter 815
Marketplace

From: Ruben Garza [REDACTED]
Sent: Monday, January 21, 2019 4:45 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Ruben Garza

[REDACTED]
1300 Rollingbrook Dr.
Baytown, TX, Texas 77521

Comment 194
Proposed Rules
Chapter 815
Marketplace

From: Michelle Lehman [REDACTED]
Sent: Monday, January 21, 2019 9:46 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Michelle Lehman
[REDACTED]
5431 Fairmont Circle
Austin, Texas 78745

Comment 196
Proposed Rules
Chapter 815
Marketplace

From: Tina Harris [REDACTED]
Sent: Tuesday, January 22, 2019 8:13 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Tina Harris

[REDACTED]
215 Volunteer Dr.
Arlington, Texas 76014

Comment 197
Proposed Rules
Chapter 815
Marketplace

From: Maria Thomas [REDACTED]
Sent: Tuesday, January 22, 2019 8:31 AM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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Maria Thomas
[REDACTED]

PO BOX 12727
AUSTIN, Texas 78711

Comment 198
Proposed Rules
Chapter 815
Marketplace

From: Gary Buresh [REDACTED]
Sent: Tuesday, January 22, 2019 1:51 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

I am writing to inform you of my opposition to any rule that would give employers the option to reclassify their "employees" as "marketplace contractors". If the TWC were to adopt such a measure, Unemployment Insurance will not be the only thing affected as claimed. Employees could be denied Social Security and Medicare, workers' compensation, unemployment insurance and overtime pay. They also put at risk health coverage, paid holidays, paid sick leave, and retirement plans that many Texans take for granted. That is why the TWC should vote no on this rule.

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The TWC should recognize that adopting such a rule is not only harmful to working Texans, but outside of their jurisdiction. The TWC should vote no on giving employers the go ahead to misclassify employees to save money and absolve themselves from giving employees basic employment benefits.

There is already a massive problem in Texas with the current misclassification of workers by unscrupulous employers and this will only make the situation worse. Workers need the Texas Workforce Commission to stand up on our behalf not on behalf of law breaking employers.

Thank you,
Gary Buresh
2206 Diamond Point Drive
Arlington, Texas 76017
817-468-9019
[REDACTED]

Comment 199
Proposed Rules
Chapter 815
Marketplace

From: Joe Arabie [REDACTED]
Sent: Tuesday, January 22, 2019 2:58 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Joe Arabie
[REDACTED]

PO BOX 12727
AUSTIN, Texas 78711

Comment 200
Proposed Rules
Chapter 815
Marketplace

From: Leonard Aguilar [REDACTED]
Sent: Tuesday, January 22, 2019 3:39 PM
To: TWCPolicyComments
Subject: I oppose rules that would exempt employers from the fairly compensating their employees.

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Workforce Commission ,

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Leonard Aguilar
[REDACTED]

8422 Rita Elena
San Antonio, Texas 78250